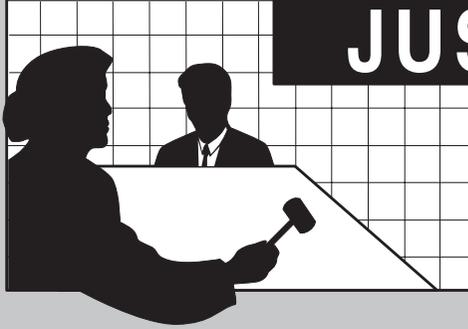


# JUDICIARY & CRIMINAL JUSTICE



60 YEARS OF SERVICE

2005-06 Analysis



# MAJOR ISSUES

## *Judiciary and Criminal Justice*

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### **Proposition 69 Request Overbudgeted**

- The Governor's budget includes funds for implementation of Proposition 69—DNA Collection—by the Departments of Justice, Corrections, and Youth Authority. While these departments will require funding to collect and process tens of thousands of additional DNA samples in 2005-06, our analysis indicates that the requests for the Corrections and Youth Authority are overbudgeted. (See page D-13.)



### **State Could Save More on Foreign Prisoner Transfers**

- The Foreign Prisoner Treaty Transfer program has the potential to reduce state incarceration costs, but because of administrative issues the state does not obtain the maximum benefit that could be achieved from this program. We offer recommendations for increasing the program's use and state savings. (See page D-19.)



### **Inmate Population Depends on Implementation of Policy Reforms**

- The California Department of Corrections (CDC) is projecting the inmate population to increase slightly in the budget year. However, this increase assumes the further implementation of policy reforms, adopted by the Legislature and administration in the past two years, designed to reduce the inmate population. Should the department continue to experience delays in implementation of these changes, it would likely result in higher than projected inmates and state costs in 2005-06. (See page D-32.)



### **CDC Disciplinary Confinement Practices Need Improvement**

- As a means of controlling prison violence, CDC has established several “disciplinary confinement” options, including administrative segregation and special housing units. Despite increasing use of such options, data show inmate assaults (and the associated state costs) continue to increase. Our examination identifies a number of shortcomings in the department’s disciplinary confinement policies and practices, and offers some recommendations for improvement. Depending on the recommendations adopted, savings could be up to \$10 million in 2005-06. (See page D-34.)



### **Court Requires Further Improvements in Inmate Health Care**

- In September 2004, the federal court issued an order requiring further improvements in CDC’s inmate health care delivery system. We believe the Governor’s budget-year proposal is consistent with the court order. However, the state continues to face significant challenges in providing better access to quality health care for inmates, including attracting qualified health professionals to work in the prison system, and implementing a health information system that enables the department to oversee the delivery of health care. We recommend a number of modifications to the Governor’s budget proposal that would result in state General Fund savings. (See page D-52.)



### **Ward Population Continues to Decline, More Closures Proposed**

- The Youth Authority projects the ward population to drop 12 percent (465 wards) by June 2006, and to further decline to just over 3,000 by June 2009. The Governor’s budget proposes to close two youth conservation camps at the end of the current year. Given the continuing drop in the ward population, and the low number of wards who qualify to participate in the camp program, we think the proposed closure is prudent. However, we think the administration should report on its plans to convert these camps to adult inmate camps. (See page D-67.)

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# OVERVIEW

## Judiciary and Criminal Justice

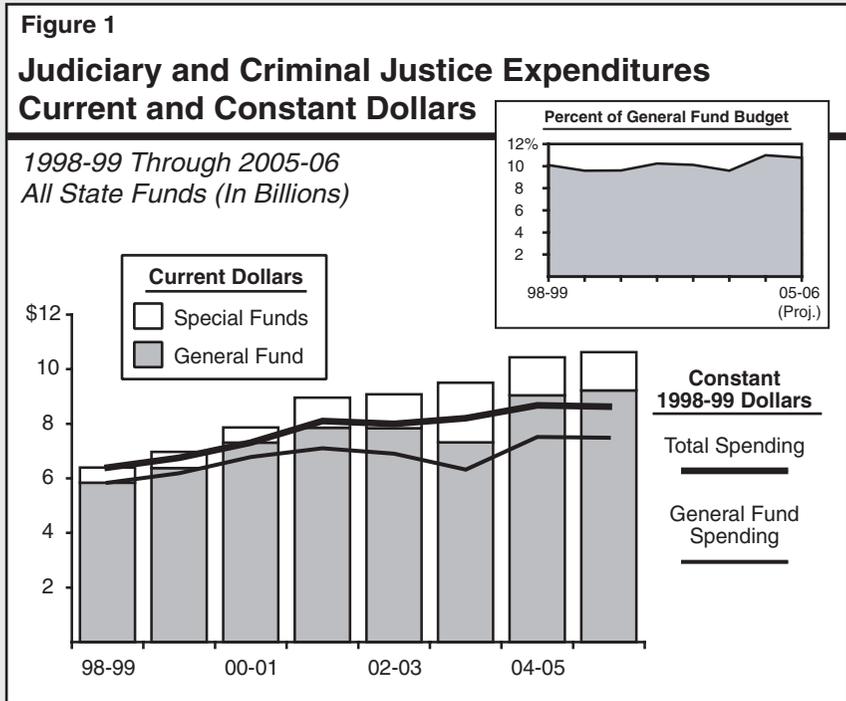
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**G**eneral Fund expenditures for judiciary and criminal justice programs are proposed to increase by 2 percent in the budget year. This increase reflects (1) the activation of a new prison, (2) trial court funding costs resulting from a new annual adjustment and increases in court salaries, and (3) an inflationary adjustment for departmental operating expenses and equipment.

## EXPENDITURE PROPOSAL AND TRENDS

**Budget Year.** The budget proposes General Fund expenditures of \$9.2 billion for judiciary and criminal justice programs, which is about 11 percent of all General Fund spending. This amount represents an increase of \$179 million, or 2 percent, above estimated current-year spending. This overall increase consists of General Fund increases in some areas and decreases in other areas. However, the growth is largely driven by increases for the California Department of Corrections (CDC) (notably spending to activate a new prison), and the judicial branch.

**Historical Trend.** Figure 1 (see next page) shows expenditures from all state funds for judiciary and criminal justice programs since 1998-99. These expenditures have been reduced to reflect federal funds the state has or is expected to receive to offset the costs of incarceration and parole of undocumented felons. The figure shows General Fund expenditures for judiciary and criminal justice programs are projected to increase by \$3.4 billion between 1998-99 and 2005-06, an average annual increase of 6.8 percent. General Fund expenditures increased during this period mostly due to (1) the state's assumption of primary responsibility for funding trial court operations as a result of legislation enacted in 1997 and (2) increased labor costs to operate the state corrections system, as well as court-ordered expansions of inmate health and mental health services.



## SPENDING BY MAJOR PROGRAM

Figure 2 shows expenditures from all sources for the major judiciary and criminal justice programs in 2003-04, 2004-05, and as proposed for 2005-06. As the figure shows, CDC accounts for the largest share of total spending in the criminal justice area, followed by the Trial Court Funding program. The Youth Authority is the only department (of these major departments) proposed to experience a reduction in 2005-06. This is due to the proposed closure of two youth fire camps.

**Figure 2****Judicial and Criminal Justice Budget Summary**

2003-04 Through 2005-06  
(Dollars in Millions)

	Actual 2003-04	Estimated 2004-05	Proposed 2005-06	Change From 2004-05	
				Amount	Percent
<b>Department of Corrections</b>					
General Fund	\$4,829.5	\$6,119.8	\$6,369.8	\$250.0	4.1%
Special funds	50.7	58.0	57.0	-1.0	-1.7
Reimbursements and federal funds	936.9	82.7	81.3	-1.4	-1.7
<b>Totals</b>	<b>\$5,817.1</b>	<b>\$6,260.5</b>	<b>\$6,508.1</b>	<b>\$247.6</b>	<b>4.0%</b>
<b>Department of the Youth Authority</b>					
General Fund	\$359.0	\$355.9	\$350.0	-\$5.9	-1.7%
Reimbursements and federal funds	59.7	52.1	50.2	-1.9	-3.7
<b>Totals</b>	<b>\$418.7</b>	<b>\$408.0</b>	<b>\$400.2</b>	<b>-\$7.8</b>	<b>-1.9%</b>
<b>Federal Offset for Undocumented Felons</b>					
	<b>-\$74.6</b>	<b>-\$78.9</b>	<b>-\$78.5</b>	<b>\$0.4</b>	<b>-0.5%</b>
<b>Trial Court Funding<sup>a</sup></b>					
General Fund	\$1,096.9	\$1,310.4	\$1,471.5	\$161.1	12.3%
Special funds/reimbursements	684.7	715.4	711.4	-4.0	-0.6
County contribution	475.1	475.1	475.1	—	—
<b>Totals</b>	<b>\$2,256.7</b>	<b>\$2,500.9</b>	<b>\$2,658.0</b>	<b>\$157.1</b>	<b>6.3%</b>
<b>Judicial<sup>b</sup></b>					
General Fund	290.0	\$301.1	\$308.9	\$7.8	2.6%
Other funds and reimbursements	18.1	52.1	64.7	\$12.6	24.2
<b>Totals</b>	<b>\$308.1</b>	<b>\$353.2</b>	<b>\$373.6</b>	<b>\$20.4</b>	<b>5.8%</b>
<b>Department of Justice</b>					
General Fund	\$308.9	\$318.9	\$322.5	\$3.6	1.1%
Special funds/reimbursements	261.8	313.9	328.6	14.7	4.7
Federal funds	33.3	44.0	36.6	-7.4	-16.8
<b>Totals</b>	<b>\$604.0</b>	<b>\$676.8</b>	<b>\$687.7</b>	<b>\$10.9</b>	<b>1.6%</b>

<sup>a</sup> These figures include local assistance funding formerly in Judicial program.

<sup>b</sup> These figures do not include funding for local assistance.

## MAJOR BUDGET CHANGES

Figure 3 presents the major budget changes for judiciary and criminal justice programs. These and other changes are described below.

**Figure 3**

### Judiciary and Criminal Justice Proposed Major Changes for 2005-06 All Funds

<b>Department of Corrections</b>	<b>Requested:</b>	<b>\$6.5 billion</b>	
	<b>Increase:</b>	<b>\$248 million</b>	<b>(4%)</b>

- + \$93 million to open new maximum-security prison (Kern County)
  - + \$60 million to fully fund current-year salary increases
  - + \$45 million for price increases
  - + \$30 million for inmate medical services
- 
- \$95 million from inmate and parolee programs

<b>Department of the Youth Authority</b>	<b>Requested:</b>	<b>\$400 million</b>	
	<b>Decrease:</b>	<b>\$7.8 million</b>	<b>(-1.9%)</b>

- \$2.3 million from closure of two youth fire camps

<b>Trial Court Funding</b>	<b>Requested:</b>	<b>\$2.7 billion</b>	
	<b>Increase:</b>	<b>\$157 million</b>	<b>(6.0%)</b>

- + \$93 million for increased trial court salaries and benefits
- + \$97 million for trial court state appropriations limit adjustment
- + \$73 million to repay Court Facilities Construction Fund

<b>Department of Justice</b>	<b>Requested:</b>	<b>\$688 million</b>	
	<b>Increase:</b>	<b>\$10.9 million</b>	<b>(1.6%)</b>

- + \$5.8 million for information system upgrades
- + \$1.7 million for casework backlog reduction
- + \$1.5 million to replace laboratory equipment

---

***The Budget Proposes Funds for Activation of New Prison, and Salary Increases.*** The budget provides about \$93 million to open a new maximum-security prison in spring 2005 at Delano (Kern County). This primarily consists of funds for approximately 1,200 positions. The budget also provides \$60 million for the full-year costs of salary increases that took effect in the current year, mostly for correctional officers.

***The Budget Funds Court Order Related to Inmate Health Care.*** The budget would provide approximately \$30 million to comply with a recent court order stemming from the *Plata v. Davis* settlement agreement reached in 2001 relating to inmate health care. This new funding is in addition to a 2002-03 request approved by the Legislature, providing about \$90 million annually and 1,400 health-related positions, upon full implementation, to address the same lawsuit.

***Reduction Proposed for Inmate and Parolee Programs.*** As part of the administration's unallocated reduction in state operations, CDC would be required to reduce spending by \$95 million. The budget indicates that \$95 million savings would be achieved through reductions in funding for inmate and parolee programs.

***Juvenile Justice Reform.*** The budget indicates that the administration will propose significant policy changes in the Youth Authority as part of the May Revision. Although details are lacking, the budget suggests that the administration will likely propose to shift a portion of the Youth Authority population and services to the local level. At the same time, the budget proposes to reduce funding for local juvenile crime prevention programs by \$75 million.

***Trial Court Funding Program Gets Significant Increase.*** The budget proposes several major augmentations for the Trial Court Funding program. These consist of \$92.5 million for increased trial court salaries and benefits, and \$97 million related to the change in the state appropriations limit (SAL). It should be noted that the administration assumed 4.8 percent growth in the SAL for purposes of calculating the Trial Court Funding budget. However, we estimate the SAL change is about 6 percent, which would further increase state spending for the courts in 2005-06. The administration has indicated that it will make any needed adjustment in the May Revision. In addition, the budget includes approximately \$73 million from the General Fund to repay a loan of the same amount that was included in the *2003-04 Budget Act*.



# CROSSCUTTING ISSUES

*Judiciary and Criminal Justice*

## PROPOSITION 69-DNA COLLECTION

*The administration proposes budget increases in three departments—the Department of Justice, California Department of Corrections (CDC), and California Youth Authority—in order to carry out provisions of Proposition 69 which expands state and local responsibilities for the collection of DNA samples from felons and some nonfelons. We review the Governor’s proposals, identify overestimated funding requests, and recommend reducing the requested amounts in CDC and the Youth Authority. (Reduce Item 5240-001-0001 by \$1,812,000 in 2004-05, and by \$3,465,000 in 2005-06. Reduce Item 5460-001-0001 by \$148,000 in 2005-06.)*

### **Background**

In November 2004, California voters enacted Proposition 69 which significantly expands the state’s collection of DNA samples from convicted felons and individuals arrested on suspicion of felony and some misdemeanor offenses. Figure 1 (see next page) summarizes the major provisions of Proposition 69.

### **Implementation of Proposition 69**

**Budget Proposals.** The Governor’s budget proposes multiyear funding for the Department of Justice (DOJ), California Department of Corrections (CDC), and the Youth Authority. The departments’ requests primarily reflect the costs of collecting and analyzing additional DNA samples. Specifically, CDC and the Youth Authority would require additional state resources to collect DNA from prisoners and wards currently in custody,

as well as parolees, for crimes covered by the measure. In addition, DOJ would incur costs to hire and train staff and purchase equipment and supplies to process DNA samples in its labs. It also would incur costs for contracts with public or private labs to process DNA samples.

**Figure 1**

### **Major Provisions of Proposition 69 DNA Collection**

- ✓ **Sample Collection Required.** Requires that all convicted felons and some nonfelons, as well as individuals arrested for certain offenses, provide samples from the inner cheek cells of the mouth (known as a “buccal swab” sample).
- ✓ **General Fund Loan Required.** Requires a General Fund loan of \$7 million to the Department of Justice (DOJ) for the implementation of the proposition’s provisions.
- ✓ **DNA Identification Fund.** Increases criminal fines and other penalties (\$1 for every \$10) with revenues in the fund shared by the state and local governments, to support the expansion of DNA collection on an ongoing basis.
- ✓ **Contracting With Other DNA Labs Required.** Requires DOJ to contract with public or private laboratories to process samples that it has not analyzed within six months of receipt.

Under Proposition 69, local law enforcement agencies are required to collect samples from *all newly* convicted felons. The state is required to collect samples from all *current* state inmates, wards, and parolees who were not sampled under prior law. Local costs for collecting samples from convicted felons and some nonfelons, as well as individuals arrested for certain offenses, are to be funded by the increased penalty revenues.

While some current- and budget-year funding is required to implement the measure, we have concerns regarding certain aspects of the Governor’s request. We discuss each department’s proposal, as well as our concerns and recommendations in more detail below.

### **DOJ Proposal Appears Reasonable**

The DOJ operates the state’s DNA laboratory at a cost of approximately \$26 million annually. The DNA lab, located in Richmond, supports law

enforcement activities at both the state and local levels. Specifically, the Richmond lab houses the Cal-DNA Databank and Missing Persons DNA programs. In fiscal year 2003-04, the latest year for which data are available, the DNA lab processed nearly 66,000 DNA samples.

Proposition 69 requires DOJ to store DNA profiles of convicted felons in a statewide DNA databank. The DNA profiles are also submitted by DOJ to the Combined DNA Index System, a national repository maintained by the Federal Bureau of Investigation.

The Governor's budget indicates that in the current year DOJ will require \$11 million from the DNA Identification Fund, which includes a \$7 million General Fund loan, and 37 positions to start implementation of Proposition 69. At the time this analysis was prepared, SB 22 (Migden) had been introduced to appropriate funds in the current year. For the budget year, the department is requesting \$11.2 million from the DNA Identification Fund and 11 additional positions for a total of 48 permanent positions. The request would provide funding for the department to hire and train additional staff, purchase equipment and supplies, and contract with public or private labs for the processing of DNA samples. This funding will allow DOJ to process 65,000 DNA samples in the current year and 130,000 samples in the budget year.

***Analyst's Recommendation.*** Based on our review of the department's proposal we believe that the department has reasonably projected the number of samples that it expects to receive and process. In addition, based on its projections, we think its hiring timeline is also reasonable. As a result, we recommend the Legislature approve the department's request to begin implementing Proposition 69 in the current year.

## **CDC and Youth Authority Proposals Are Overestimated**

Prior law required the collection of DNA samples from felons convicted of serious and violent offenses. Approximately one-half of the state's current inmate, ward, and parolee populations have previously provided DNA samples. In general, most of the collected samples were from adult felons. Proposition 69 requires CDC and the Youth Authority to collect DNA samples from any inmates, wards, and parolees currently under their jurisdiction who were not sampled under prior law. Figure 2 (see next page) shows the administration's estimates of the number of samples projected to be taken from inmates, wards, and parolees, and the total collection cost in each of the next three years.

**Figure 2****Proposition 69****Estimated Number of Samples and Costs  
CDC and CYA***2004-05 Through 2006-07*

	2004-05	2005-06	2006-07	Totals
<b>CDC</b>				
Samples				
Inmate	87,376	48,636	48,636	184,648
Parolee	30,686	53,886	—	84,572
<b>Costs</b>	<b>\$4,000,000</b>	<b>\$3,550,000</b>	<b>\$357,000</b>	<b>\$7,907,000</b>
<b>CYA</b>				
Samples				
Ward	—	3,141	676	3,817
Parolee	—	2,790	—	2,790
<b>Costs</b>	<b>—</b>	<b>\$525,000</b>	<b>\$37,000</b>	<b>\$562,000</b>

The CDC and Youth Authority request funding for health care, custody, and parole agent staff to collect DNA samples, as well as other related costs. While the departments will require additional funding to collect these samples, our review found that several of their proposals were overbudgeted.

**Excess Health Care Costs.** The CDC requests current-year funding for overtime costs for existing laboratory assistants in prisons to collect DNA samples from all inmates. Similarly, the Youth Authority requests funds to contract with a phlebotomist to collect samples from wards in 2005-06 and 2006-07. Currently, both departments use health care employees to collect DNA blood samples from inmates and wards. However, health care employees will not be required to collect these samples once prisons and Youth Authority facilities begin using buccal swab kits for DNA collection. The buccal swab kit includes a small instrument that is used to collect a sample of the inner cheek cells of the mouth and does not require that the collection be taken by a health care employee. At the time this analysis was prepared, DOJ reported that institutions will begin receiving buccal swab kits and the requisite training by March 2005, and sampling will begin immediately thereafter. Therefore, overtime funding for laboratory assistants and contract costs for a phlebotomist will not be needed for most inmate and ward samples because most inmates and wards will be sampled after the

departments begin using the buccal swab kits. In fact, CDC's budget request implicitly acknowledges this by including funding for correctional officers to collect most inmate samples. We recommend a partial reduction of \$286,000 in the current year related to CDC's request for laboratory assistant overtime and deletion of the Youth Authority's request to contract for a phlebotomist in the budget year, for a savings of approximately \$28,000.

***Excess Funding Requested for Inmate Samples.*** The CDC estimates that in the current year, it will collect 87,000 DNA samples from inmates. The department indicates that most of these samples will be collected in April in conjunction with its annual tuberculosis (TB) screening of all inmates. Based on our review, we think the projected number of required samples is reasonable. Additionally, the strategy of taking samples at the same time as TB tests has merit. We therefore have no concerns regarding the department's strategy related to the collection of inmate samples in the current year.

On the other hand, CDC's request for funding to collect inmate samples in 2005-06 and 2006-07 are not justified because it assumes that the department will be required to collect DNA samples from *new inmates* who are transferred to state prison from counties. However, Proposition 69 clearly requires counties to collect samples from all convicted felons, including those who will be sent to CDC starting on the effective date of the measure (November 2004). According to DOJ, counties have received the necessary training and buccal swab kits and are currently collecting samples from all eligible offenders. As a result, there should not be any new inmates entering CDC who have not provided a DNA sample. Therefore, CDC should not require any funds for DNA collection in prisons in 2005-06 and 2006-07. Based on this finding, we recommend that the Legislature delete the funding request of \$1.2 million in 2005-06.

***Cost of Postage Is Overestimated.*** Both departments propose funding to cover the cost of postage necessary to mail collected samples to DOJ. Based on our discussions with DOJ representatives, we believe the departments have overestimated the costs for postage because the buccal swab kits are smaller than existing kits and should be significantly less expensive to mail. Based on this finding, we recommend that the Legislature reduce CDC's funding for postage by \$231,000 in the current year. In addition, we recommend that the Legislature reduce the Youth Authority's funding request for postage by approximately \$6,000 in 2005-06.

***CDC Revising Parole Collection Plan.*** The CDC's request includes funding for collection of parolee DNA samples. The department's proposal assumes that parole agents will refer parolees to county collection sites. The department estimates that this will result in significant overtime costs for

parole agents to make and follow-up on the referrals. In addition, the state will likely have to reimburse counties for taking the DNA samples.

Based on more recent discussions with the department, it indicates that it is now considering a combination of approaches for the collection of parolee DNA samples. Alternative approaches consist of (1) having parole agents collect samples and (2) using a private contractor to collect samples in parole offices. We believe that using either of these alternative approaches would likely be less expensive than what the budget proposes. For example, having parole agents collect samples should not require reimbursements to counties or as much parole agent overtime. At the time this analysis was prepared, CDC had not provided our office with a revised plan for the collection of parolee DNA samples. Therefore, we recommend deletion of the current- and budget-year funding request related to parole agent overtime and reimbursements to counties until CDC provides a revised implementation plan and its estimated costs. This plan should include the number of parolee samples the department estimates will be collected using each alternative approach and the per-sample cost of each alternative.

The Youth Authority has indicated that it plans to collect buccal samples from parolees beginning in the budget year. The budget request assumes that parole agents will require overtime pay to collect the DNA samples from juvenile parolees. We think the workload can be absorbed within existing resources. Currently, parole agents collect drug test samples from parolees while they are performing their monthly parole contact visits in the field. One advantage of the buccal swab is its ease of use, which means that an agent could collect a parolee's sample during a routine visit and without the use of overtime. Therefore, we also recommend that the Legislature delete the Youth Authority's request for \$119,000 in 2005-06 for parole agent overtime costs.

In addition to these proposed reductions, we recommend that the Legislature direct CDC and the Youth Authority to make adjustments to their 2006-07 budgets that are consistent with legislative action on their current- and budget-year requests.

**Conclusion.** The Governor's budget proposes funding in DOJ, CDC, and the Youth Authority to implement provisions of Proposition 69. While the departments will require some new funding to carry out this implementation, we believe these proposals include some unnecessary funding requests. We recommend reduction of the departments' budgets accordingly.



## STATE DOES NOT MAKE FULL USE OF FOREIGN INMATE TRANSFER PROGRAM

*The Foreign Prisoner Transfer Treaty Program has the potential to reduce state incarceration costs, but because of administrative issues, the state does not obtain the maximum benefit that could be achieved. We recommend that the Legislature authorize the expansion of this program to generate more cases and process them more quickly. The resulting incarceration savings would likely offset program costs, and increase in future years. (Reduce Item 5240-001-0001 by \$127,000. Increase Item 5440-001-0001 by \$110,000.)*

**How the Program Works.** The Foreign Prisoner Transfer Treaty Program, administered by the Board of Prison Terms (BPT) and the California Department of Corrections (CDC), allows inmates who are citizens of foreign countries to be transferred to their home country to serve their prison sentence. Staff in CDC provide a volunteer form to interested inmates. This form is sent to BPT where staff investigate the case to determine whether the inmate meets all eligibility requirements and would be a good candidate for transfer. Once BPT approves the case, it is filed with the United States Department of Justice (US DOJ) which negotiates the transfer with the inmate's home country.

The US DOJ has operated the transfer program since 1977. The BPT received some funding to administer the program in California until 1997, at which time the program was discontinued. In 2002, the Legislature provided the department with one investigator position and a part-time office technician position to restart the program.

**Program Reduces State Costs.** Transferring an inmate out of the state prison population results in savings to CDC of approximately \$18,000 for each year that the inmate does not serve in prison. The total state savings generated by the program depends on the number of inmates that are successfully transferred each year, as well as the length of time that each inmate would have served in state prison if not transferred. Accordingly, state savings depend largely on the number of applications submitted by

inmate volunteers and how quickly the state can investigate and process these requests.

***California Does Not Transfer Many Inmates.*** The BPT estimates that about 6,500 foreign inmates are eligible for transfer. The BPT has successfully transferred 15 foreign inmates over the past three years. By comparison, the federal prison system—which has approximately the same number of total inmates (foreign and domestic) as California—has transferred 857 inmates over the same period. In part, California has transferred few inmates because its prisons contain a higher percentage of inmates who have committed violent crimes and are permanent residents of the United States, both factors that make inmates less likely to be considered suitable for the transfer program by BPT. However, our analysis indicates that California’s low transfer rate is also the result of several administrative issues that result in few inmate applications for transfer and delays in processing transfer cases. Each of these issues is described below.

- ***Institution Employees Do Not Know About Program.*** The Legislature reinstated the transfer program in 2002, and many prison employees are unaware of the program and its application procedures. In addition, based on our discussions with department staff, the department does not train case management personnel—who would be the staff to inform inmates about the transfer—on how to administer the program.
- ***Outdated Department Manual.*** The lack of staff knowledge about the program is exacerbated by the fact that CDC’s Department Operations Manual contains outdated information about the transfer program’s application procedures and eligibility requirements. For example, the manual does not include a complete list of the foreign countries to which inmates can be transferred.
- ***Little Information Provided to Inmates.*** In addition, the state does not provide program brochures to inmates or post notices about the program in housing units. As a result, many inmates who might be interested in this program are unaware that it exists or whether they are eligible to volunteer. In fact, according to federal officials, most transfer cases generated in California do not result from the interaction of state prison officials and inmates, but originate from the request of foreign embassies that find out that their citizens are in prison. As a result of these issues, the BPT received fewer than 60 inmate applications for transfer in 2004. By comparison, the federal prison system received over 1,400 such applications last year.
- ***Low BPT Staffing Delays Processing of Cases.*** According to state and federal officials, several factors cause delays in the processing

of transfer cases, an issue that reduces program savings. Currently, the investigator in BPT investigates and processes all 60 cases. By comparison, federal investigators have average caseloads of about 115 each. Despite the lower caseload, the BPT investigator does all investigations and casework for each transfer request, while federal investigators receive casework assistance from prison staff. As a result, the BPT cannot investigate and process transfer cases quickly.

- **Information Requests Delay Transfers.** Additionally, the BPT officials almost always inquire with the foreign country as to the length of sentence the transferred inmate will receive in order to determine how similar that sentence would be to the sentence imposed in California. Federal officials report that this request can take several months and up to a year to process. Yet, this request is not a requirement of the transfer treaties, and in many cases, the department could make a reasonable estimation based on similar cases it or US DOJ have processed in the past. The Legislature may wish to direct BPT to limit its practice of inquiring as to the sentences to be imposed by foreign governments to only unique cases.

**Analyst's Recommendation.** We recommend that the Legislature adopt supplemental report language requiring BPT to produce easy-to-read brochures about the transfer program that can be distributed to inmates. These brochures should be printed in multiple languages. We believe that the cost of these brochures can be absorbed by the department. In addition, we recommend that the supplemental report language instruct CDC and BPT to update their policies and procedures to maximize the effectiveness of this program. In particular, the CDC should update its operating manual. The following supplemental report language is consistent with these recommendations:

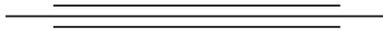
Item 5440-001-0001. No later than October 1, 2005, the Board of Prison Terms shall produce information brochures for the Foreign Prisoner Transfer Treaty Program in sufficient number to distribute to all incoming state prison inmates. These brochures shall be printed in English and Spanish, as well as any other languages the department believes appropriate.

Item 5240-001-0001. No later than October 1, 2005, the California Department of Corrections shall update its Operations Manual to include current state policies and procedures regarding the Foreign Prisoner Transfer Treaty Program.

Finally, we recommend that the Legislature authorize two program analyst positions and \$110,000 in BPT to support the transfer program. This additional staff would allow BPT to investigate and process the increase in applications created by the above changes, as well as do more

field training of CDC staff. We would note that using program analyst positions will be less expensive than investigators. Based on our discussions with the department, we think this classification is suitable to perform most casework duties in support of the current investigator position.

The above actions would result in state incarceration savings by generating more applications and allowing BPT to investigate and process more cases in less time. Therefore, we recommend that the Legislature reduce the CDC budget by \$127,000 in the budget year, which represents a reduction of about 7 inmates for the full year. While the exact amount of long-run savings will depend on several factors, an increase of 25 inmate transfers each year, for example, would result in offsetting savings of about \$1 million annually.



# DEPARTMENTAL ISSUES

## *Judiciary and Criminal Justice*

### JUDICIAL BRANCH (0250)

The California Constitution vests the state's judicial power in the Supreme Court, the Courts of Appeal, and the trial courts. The Supreme Court, the six Courts of Appeal, and the Judicial Council of California, which is the administrative body of the judicial system, are entirely state-supported. The Trial Court Funding program provides state funds (above a fixed county share) for support of the trial courts. Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle), shifted fiscal responsibility for the trial courts from the counties to the state. California has 58 trial courts, one in each county.

***Budget Restructuring.*** The Governor's budget merges funding for the Judicial and Trial Court Funding programs under a single "Judicial Branch" budget item. It also shifts local assistance funding for a variety of programs, including the Child Support Commissioner program, the Drug Court Projects, and the Equal Access Fund from the Judicial Council budget to the Trial Court Funding budget.

***Budget Proposal.*** The Judicial Branch budget proposes total appropriations of approximately \$3 billion in 2005-06. This is an increase of \$178 million, or 6 percent, above estimated current-year expenditures. Total General Fund expenditures are proposed at \$1.8 billion, an increase of about \$168 million, or 11 percent, above current-year expenditures. Total expenditures from special funds and reimbursements are proposed at about \$1.3 billion, an increase of \$9 million, or less than 1 percent. Approximately 86 percent of total Judicial Branch spending is for the Trial Court Funding

program, and the remainder is for the “Judicial” program, which includes the Supreme Court, Courts of Appeal, Judicial Council, and the Habeas Corpus Resource Center.

The overall increase in the Judicial Branch budget is primarily due to salary and benefit cost increases (\$101 million), the restoration of one-time reductions (\$61 million), and annual adjustments for growth and inflation (\$99 million). Most of this increase is for the Trial Court Funding program. Figure 1 shows proposed expenditures for these two major program areas in the past, current, and budget years.

<b>Figure 1</b>			
<b>Judicial Branch Funding—All Funds</b>			
<i>(In Millions)</i>			
	<b>Actual 2003-04</b>	<b>Estimated 2004-05</b>	<b>Proposed 2005-06</b>
<b>Judicial Program</b>			
Supreme Court	\$37.6	\$40.3	\$40.7
Courts of Appeal	160.7	176.4	178.3
Judicial Council <sup>a</sup>	99.9	130.9	143.2
Habeas Corpus Resource Center	9.9	11.1	11.4
Unallocated reduction	—	-5.5	—
Subtotals	(\$308.1)	(\$353.2)	(\$373.6)
<b>Trial Court Funding Program<sup>b</sup></b>	<b>\$2,256.7</b>	<b>\$2,500.8</b>	<b>\$2,658.0</b>
<b>Totals</b>	<b>\$2,564.8</b>	<b>\$2,854.0</b>	<b>\$3,031.6</b>

<sup>a</sup> Includes funding for the Judicial Branch Facility program.

<sup>b</sup> Includes local assistance funding formerly in the Judicial program.

### Legislative Action Required to Backfill for Expiring Fees

*The budget assumes the adoption of legislation to backfill for state fees that expire at the end of the current year. We withhold recommendation on the budget for the Trial Court Funding program, pending a report by Judicial Council of California staff at budget hearings on the status of its Uniform Civil Fee proposal, and the estimated revenues that would be generated under the proposal in the budget year.*

**Background.** Funding for the trial courts is comprised of three main fund sources: (1) the state General Fund; (2) state revenues from fines, fees, and surcharges; (3) and a fixed county contribution. In recent years, due to

the state's fiscal condition, the state has increasingly relied on new revenue from fees and fines to offset General Fund costs. For example, the 2002-03 *Budget Act* increased civil filing fees by 10 percent and criminal penalties by 20 percent. The 2003-04 *Budget Act* enacted a variety of new and increased court fees, including a new "court security" fee, and higher filing fees for different case types such as probate and small claims cases. No new or increased fees were adopted as part of the 2004-05 *Budget Act*.

***Growth in State Revenues From Court Fees and Surcharges.*** Data provided by Judicial Council staff show that state revenues from court fees and surcharges have increased 81 percent as a result of these changes, going from \$171 million in 2002-03 to \$309 million in 2003-04. In the current year, court staff projects that revenues will further increase to \$344 million as the full-year effect of 2003-04 fee increases is realized.

***Some Fees to Expire, Legislative Action Required to Backfill for Loss.*** Under current law, two new fee sources established by the Legislature in 2003-04 will sunset on June 30, 2005, absent legislative action. These fee sources are the court security fee and "undesignated fees." Court staff projects this will result in a \$46 million decline in 2005-06 revenues. The Governor's budget assumes that the loss of these revenues would be fully offset by (1) the court's Uniform Civil Fee proposal (\$17 million), and (2) a reauthorization of the undesignated fees transfer from the counties to the courts (\$29 million). These proposals are discussed below.

- ***Uniform Civil Fee Proposal.*** In order to address the complexity and lack of uniformity in the existing civil fee structure, the Judicial Council in late 2003 formed a working group of diverse stakeholders to undertake a comprehensive review of the existing civil fees and to make recommendations for developing a uniform civil fee structure. Based on the findings and recommendations of the working group, the court has developed legislation to streamline the existing civil fee structure and achieve uniformity in the level of fees charged by courts and counties statewide. Generally, this proposal involves collapsing a number of existing fees into a single fee, as well as raising certain fees.

Based on our discussions with court staff, it is our understanding that the courts intend to seek legislative action in the current legislative session to implement the "Uniform Civil Fee" proposal. However, at the time this analysis was prepared, the courts did not have an estimate of the potential 2005-06 revenue that would result from the enactment of its fee proposal. It is our understanding that the Department of Finance (DOF) assumed that the proposal would be modified to ensure that it generates at least the \$17 million assumed in the budget. The actual revenue level will depend

on the specific legislation enacted by the Legislature, the timing of its enactment, and the length of time it takes courts to implement its provisions.

- **Undesignated Fees.** When the state assumed primary responsibility for funding trial court operations, there were a number of court-related fees that could not be designated as belonging to either the courts or the counties. There was a lack of information regarding where these fees were being deposited (with the court or county), as well as a lack of information regarding the total amount of revenue generated by these fees. Based on a survey conducted by Judicial Council staff, the *2003-04 Budget Act* required counties to transfer \$31 million to the courts because it was determined that courts bore the cost of providing the services related to certain undesignated fees. As mentioned above, this funding is scheduled to sunset in June. Consistent with its revenue assumptions, the administration has proposed budget trailer bill language to permanently reauthorize the undesignated fees transfer.

**Analyst's Concern and Recommendation.** Although we have not had an opportunity to review the Uniform Civil Fee proposal, since it was still being developed at the time this analysis was prepared, we think the overall goal of simplifying the existing civil fee structure has merit. We also think that the proposed reauthorization of the undesignated fees transfer has merit to the extent that courts bear the costs of providing the services for which the fees are being collected. However, given that no estimate is available of the potential revenue that would be generated by the Uniform Civil Fee proposal, we withhold recommendation at this time. We recommend the Legislature direct Judicial Council staff to report at budget hearings on its Uniform Civil Fee proposal, in particular the amount of revenue that it estimates would be generated by the proposal if it were adopted by the Legislature, and the timeline for implementation. To the extent that the revenue from these proposals does not materialize, either the courts would have to reduce their budgets or the General Fund would have to backfill the shortfall.

## Technical Budget Adjustments Required

*We recommend the Department of Finance make technical adjustments to the Judicial Branch budget as part of the May Revision.*

Based on our review of the Judicial Branch budget and discussions with DOF staff, we identified two technical budgeting issues that require budget adjustments. First, the current- and budget-year reserve amounts for the Trial Court Trust Fund do not appear to accurately reflect the level of proposed expenditures from the fund. Accordingly, we recommend that

DOF, as part of the May Revision, make the required adjustments to align the Trial Court Trust Fund reserve amounts with its proposed spending plan. Second, in calculating the annual growth adjustment for the Trial Court Funding program, the budget assumes a 4.8 percent increase in the state appropriations limits (SAL). The increase published elsewhere in the budget is closer to 6 percent. This would result in increased funding for the trial courts of \$27 million on a current law basis. The administration has indicated that it plans to make the required adjustment to reflect higher growth in the SAL as part of the May Revision.

## NEWLY IDENTIFIED MANDATE REVIEW

Chapter 1123, Statutes of 2002 (AB 3000, Committee on Budget), requires the Legislative Analyst's Office to review each mandate included in the Commission on State Mandates' (CSM) annual report of newly identified mandates. In compliance with this requirement, this analysis reviews the mandates entitled "Grand Jury Proceedings."

### Grand Jury Proceedings Mandates

*We recommend adoption of the Governor's proposal to suspend the "Grand Jury Proceedings" mandates, as this would allow the Legislature the time to evaluate the outcomes of these mandates without incurring additional costs. We further recommend the Legislature adopt supplemental report language requiring the Administrative Office of the Courts to report to the Legislature on the grand jury proceedings process.*

The California Constitution requires the annual establishment of a grand jury in each county. Grand juries investigate and issue reports on the operations, accounts, and records of local government entities, including school districts. The local entity or entities that are the subject of the report are then required to comment on the findings and recommendations of the grand jury. In 1996, 1997, and 1998, the Legislature adopted laws relating to the grand jury process. These are summarized below.

- Chapter 1170, Statutes of 1996 (SB 1457, Kopp), authorized the grand jury to request the local entity to appear before it to discuss the findings of its report. It also required the local entity to provide more extensive comments on the findings of the grand jury report. For example, it required the responding entity to indicate if it was in agreement (fully or partially) with the findings of the grand jury, and whether any of its recommendations had been adopted.

- Chapter 43, Statutes of 1997 (AB 829, Thomson), required the court, in consultation with the county counsel and the district attorney to ensure that grand juries receive training that at a minimum addresses report writing, interviews, and the scope of the grand jury's responsibility and authority.
- Chapter 230, Statutes of 1998 (AB 1907, Woods), requires the county clerk to transmit a copy of the grand jury report, and any local entity response to the State Archivist.

In June 2002, CSM determined that the statutory changes described above constitute state-reimbursable mandates and estimated the statewide cost of these mandates to be \$12.6 million (for 1997-98 through 2004-05). This includes county costs for such expenses as (1) providing training to grand juries, (2) providing more extensive comments to grand juries in response to its findings, and (3) providing a meeting room and support for the grand juries.

The Governor's budget proposes to suspend the mandates and includes no funding for prior-year claims.

***Analyst's Recommendation.*** We recommend adoption of the Governor's proposal to suspend the mandates. This will provide the Legislature and the administration an opportunity to examine the grand jury proceedings process and the related mandates. Suspending the mandates would prevent the state from incurring additional costs during such an examination. However, the grand jury proceedings would continue but potentially without meeting the specific requirements of the legislation described above. Nevertheless, we think that some of the practices required by the mandates—for example, training—are likely to continue since the training materials have already been developed.

In deciding whether to continue to fund these mandates, the Legislature should consider the extent to which the legislative changes adopted in the three measures discussed above actually made a substantive difference in the quality and outcome of grand jury proceedings. We recommend the Legislature adopt supplemental report language requiring the Administrative Office of the Courts to report to the Legislature by December 2005 regarding the grand jury proceedings. In particular, the report should include an assessment of (1) the quality of grand jury reports, (2) the response of local government entities to the findings and recommendations of the grand jury reports, and (3) training provided to grand juries to determine if the goals and objectives of the subject legislation have been achieved. The following language is consistent with this recommendation:

On or before December 1, 2005, the Administrative Office of the Courts shall report to the appropriate fiscal and policy committees of the

Legislature on the Grand Jury Proceedings mandates. The report shall include, but is not limited to, an assessment of (1) the quality of grand jury reports, (2) the response of local government entities to the findings and recommendations of the grand jury reports, and (3) training provided to grand juries in a representative sample of counties to determine if the goals and objectives of the subject legislation have been achieved.

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## DEPARTMENT OF JUSTICE (0820)

Under the direction of the Attorney General, the Department of Justice (DOJ) enforces state laws, provides legal services to state and local agencies, and provides support services to local law enforcement agencies. The budget proposes total expenditures of approximately \$688 million for support of the DOJ in the budget year. This amount is approximately \$11 million, or about 1.6 percent, above estimated current-year expenditures. The requested amount includes \$323 million from the General Fund (an increase of \$3.6 million, or 1.1 percent), \$278 million from special funds, \$37 million from federal funds, and \$51 million from reimbursements.

### **Equipment Overbudgeted**

*We recommend deleting \$3.5 million from the department's budget because equipment is overbudgeted. (Reduce Item 0820-001-0001 by \$3.5 million.)*

Based on the equipment schedule provided by DOJ, the department's equipment spending in 2005-06 is expected to decrease by \$3.5 million compared to the current year (from \$12.5 million to \$9 million). The department has indicated that its base budget was reduced to reflect the projected year-to-year change in equipment costs. However, at the time this analysis was prepared, neither DOJ nor the Department of Finance could provide documentation indicating that the current-year funding amount for equipment had been adjusted in the department's 2005-06 spending plan. Accordingly, we recommend reducing DOJ's budget by \$3.5 million.

If this amount was redirected within DOJ's budget for other purposes, the Legislature should direct the department to report at budget hearings on the specific activities supported by the redirection so that the Legislature can evaluate the potential tradeoffs in making decisions on DOJ's budget.

## DEPARTMENT OF CORRECTIONS (5240)

The California Department of Corrections (CDC) is responsible for the incarceration, training, education, and care of adult felons and nonfelon narcotic addicts. It also supervises and treats parolees released to the community.

The department operates 32 institutions, including a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse treatment facility for incarcerated felons. A new maximum-security institution is scheduled to open in spring 2005 at Delano (Kern County). The CDC system also operates 11 reception centers to process newly committed prisoners; 12 Community Correctional Facilities; 40 fire and conservation camps; the Richard A. McGee Correctional Training Center; 17 community reentry programs; 2 restitution centers; and 187 parole offices.

### BUDGET OVERVIEW

#### Budget Proposal

The budget proposes total expenditures of \$6.5 billion for CDC in 2005-06. This is \$247 million, or about 4 percent, above the revised estimate for current-year expenditures. The primary causes of this increase are the activation of a new prison (Delano), salary increases, and inmate medical care.

**General Fund Expenditures.** Proposed General Fund expenditures for the budget year total \$6.4 billion, an increase of \$250 million, or 4.1 percent, above the revised current-year estimate.

**Federal Fund Expenditures.** The Governor's budget assumes that the state will receive about \$78.5 million from the federal government during 2005-06 as partial reimbursement of CDC's costs (estimated to be more than \$700 million in the budget year) for incarcerating inmates in prison

who are illegally in the United States and have committed crimes in California. The federal funds are not included in CDC's budget display, but instead are scheduled as "offsets" to its total state General Fund expenditures.

## **INMATE AND PAROLE POPULATION MANAGEMENT ISSUES**

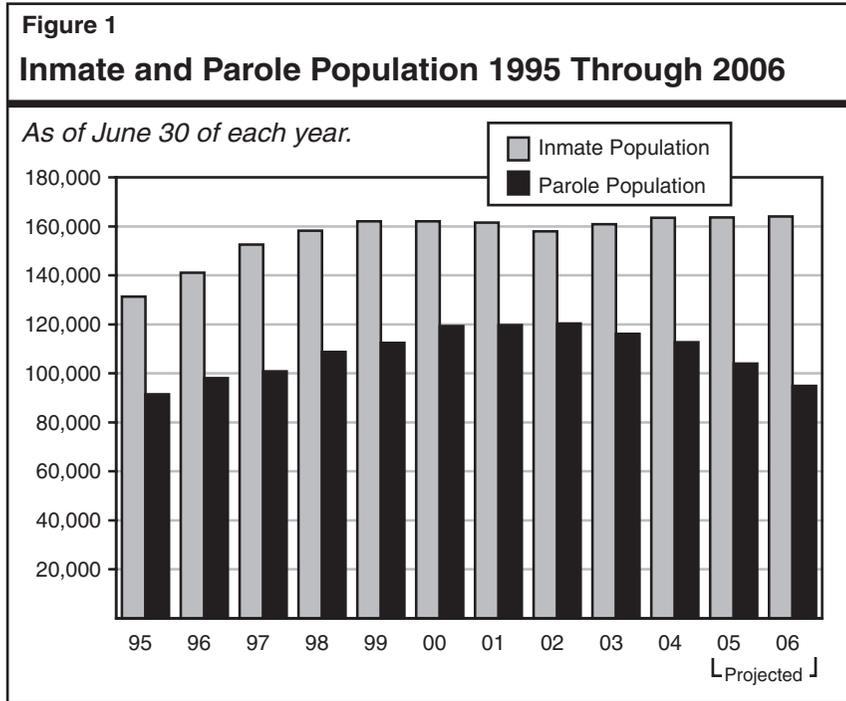
### **Inmate Population Projected to Increase Slightly**

*The California Department of Corrections (CDC) is projecting the inmate population to increase slightly in the current and budget years. The CDC projects substantial declines in the parole population over this period. The ability to achieve these reductions is largely dependent on whether the department will be able to implement recent policy reforms or if it will continue to experience implementation delays.*

*Background.* The budget acts adopted in both 2003 and 2004 included a series of program and policy reforms designed to reduce the inmate and parole populations, primarily through reduced parole revocations and increased discharges from parole. Each of these budgets assumed that the resulting population reductions would achieve hundreds of millions of dollars in savings for the state. However, ongoing delays implementing these reforms have resulted in populations higher than projected and savings much lower than budgeted. These delays have occurred for several reasons, including the slow development of new policies and procedures, difficulty contracting for treatment beds, and prolonged negotiations with state employee unions. For example, the department has not implemented new policies and procedures regarding the discharge of parolees who have served 12 consecutive months on parole without revocation. Therefore, the current population projections include revised estimates to reflect the reduced impact of these reforms on the inmate and parole populations in the current and budget years.

*Inmate Population Increase.* As of June 30, 2004, the CDC housed 163,500 inmates in prisons, fire and conservation camps, and community correctional facilities. The CDC projects the inmate population to increase to 164,080 by June 30, 2006, an increase of 580 inmates, or less than 1 percent compared to the beginning of the current year. The projected increase in the inmate population is primarily the result of a recent trend of moderately increasing admissions to prison from county courts, partially offset by recent policy reforms designed to reduce the number of parolees who return to prison. In the absence of these reforms, CDC projects that the inmate population would have increased by about 2,300 inmates by the end of the budget year. Figure 1 shows the year-end inmate and parole populations for the period 1994 through 2006.

**Parole Population Decrease.** As of June 30, 2004, the CDC supervised 112,685 persons on parole. As shown in Figure 1, the CDC projects the parolee population to decrease to 94,897 by the end of the budget year, a decrease of 17,788, or 16 percent. This decrease is primarily a result of the policy reforms designed to increase the number of parolees discharged from parole supervision. In the absence of these reforms, the CDC projects that the parole population would have decreased by roughly 2,700 by June 30, 2006.



**Implications of Population Changes.** The CDC projects that recent policy reforms will reduce the inmate and parole populations compared to what would have happened in the absence of these reforms. However, these declines are significantly less than was assumed in the *2004-05 Budget Act*. As a result, the Governor’s proposed budget projects a current-year deficiency of \$208 million, of which \$201 million is for the higher than projected inmate and parole populations. In addition, the inability of the department to achieve the projected population reductions means that institutions will continue to experience significant prison overcrowding, even with the opening of a new prison in Kern County.

**Potential Risks to Accuracy of Projections.** As we have indicated in past years, the accuracy of the department's latest projections remains dependent upon a number of factors, changes to any of which could result in significantly higher or lower populations. These factors include sentencing law, crime rates, and local criminal justice practices. In particular, the ability of the department to implement recent policy reforms in a timely manner will determine whether any significant population reductions, as well as the resultant budget savings, will be achieved.

### **Caseload May Require Further Adjustment**

*We withhold recommendation on the 2005-06 budget request for caseload funding. Ongoing delays in implementing policy reforms included in the 2004-05 Budget Act raise concerns about the ability of the department to achieve projected reductions. We will continue to monitor the caseload and recommend further changes, if necessary, following review of the May Revision.*

Due to delays in implementing current-year policy reforms designed to reduce the inmate and parole populations, the department may not achieve the full current- and budget-year population reductions assumed in the Governor's budget. The CDC will issue updated population projections in spring 2005 that form the basis of its May Revision proposal. At that time, we will review whether adjustments to CDC's funding for inmate and parole caseloads are warranted.

**Analyst's Recommendation.** We withhold recommendation on the 2005-06 caseload funding request. We will continue to monitor CDC population, and make recommendations as appropriate at the time of the May Revision.

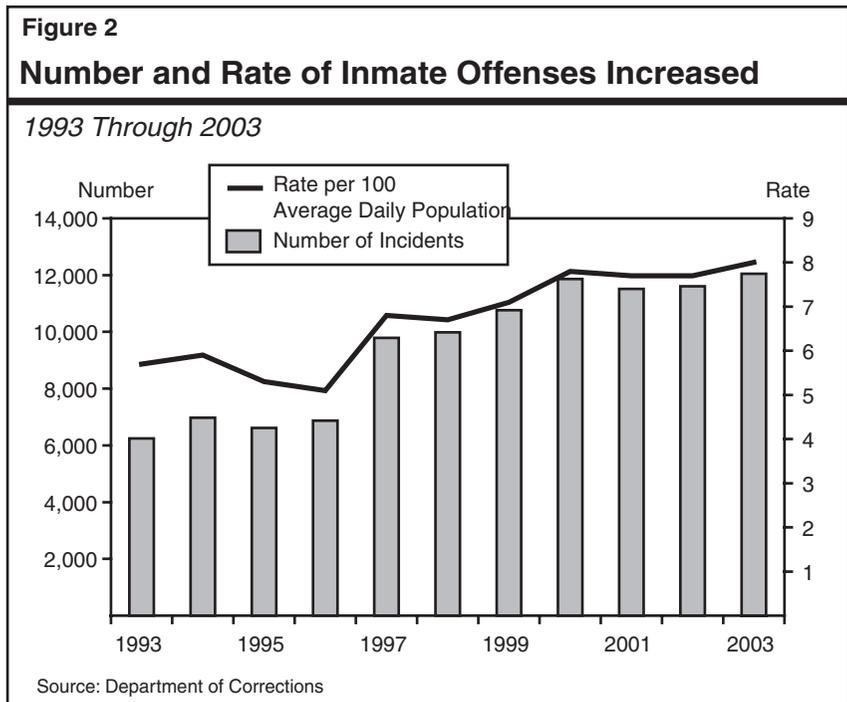
## **DISCIPLINARY CONFINEMENT PRACTICES AT CDC NEED IMPROVEMENT**

*The California Department of Corrections has established several disciplinary confinement options for inmates who commit violent and other serious offenses while in prison. We make several recommendations to improve the department's current inmate disciplinary practices which, if adopted, would result in General Fund savings without jeopardizing staff or inmate safety.*

## Background

### Inmate Violence and Other Serious Offenses

The state's 165,000 prison inmates commit thousands of rule violations every year. Some of those violations include more serious and violent offenses, which CDC refers to as inmate incidents. These incidents include a variety of offenses, such as assault, possession of a weapon, and drug offenses. According to CDC, the total number and rate of inmate incidents rose significantly between 1993 and 2003. Offenses reported by department staff doubled during that period, to over 12,000 in 2003. Part of this increase reflects changes the department made to its reporting requirements in 1997. However, even after implementing the reporting change, the number of offenses increased an additional 23 percent between 1997 and 2003. Further, the rate of inmate offenses has shown a similar upward trend since 1993 and has risen by about 18 percent since 1997. Figure 2 shows the increase in both the total number and the rate of incidents from 1993 through 2003.



Not only have overall inmate offenses risen in recent years, there is evidence that the amount of violent offenses in California prisons exceeds

that in other states. According to the most recent data available, prisons in California have nearly twice the number of assaults as in Texas and almost three times the number as in federal prisons—both systems which have roughly the same number of inmates as California. Some of the difference in the amount of reported assaults among the three prison systems may be attributable to varying definitions of what inmate actions constitute an assault. Figure 3 shows the prison population of the five largest prison systems in the United States in 2003 and the number and rate of assaults in each state in 2000 (the most recent data available).

**Figure 3**

### Assaults in California Surpass Other Large Correctional Systems

System	Prison Population (2003)	Inmate Assaults	
		Number (2000)	Per 100 Inmates (2000)
Federal	170,461	2,538	1.7
Texas	164,222	3,885	2.5
California	163,361	7,210	4.4
Florida	80,352	2,840	4.0
New York	65,914	1,640	2.3

Sources: Bureau of Justice Statistics and Criminal Justice Institute, Inc.

### Why Prison Violence Matters

**Safety and Security.** One of CDC's primary missions is to provide for the safe and secure housing of inmates. While not all violence can be avoided or prevented, the prevalence of violence in California prisons raises questions about the safety of the working environment for state employees and the safety of the living environment for those inmates who are victims of violence.

**Fiscal Effects.** The level of prison violence in state institutions raises not only safety concerns, but also has significant fiscal consequences. When violence occurs, participants and victims often require expensive medical attention. The CDC reports that approximately 1,700 staff health and workers' compensation claims were filed for injuries resulting from inmate violence over the past three fiscal years. These claims have cost the department about \$8.5 million over the period. In addition, while CDC does not track the number of injuries to inmates resulting from prison violence, treating these injuries likely costs the state several millions of dollars each year.

Violence can also lead to lawsuits against the department for failure to adequately protect inmates. In fact, CDC reports that approximately 350 such lawsuits have been filed by inmates since July 2000. The department has paid inmate claimants approximately \$4 million for 24 of those cases that have so far reached resolution. Finally, as described below, participation in violent and serious incidents results in the placement of some inmates in high-security housing which costs more than \$400 million annually.

## ***Types of Disciplinary Confinement in CDC***

The CDC has various responses it uses for inmates who commit disciplinary offenses. While some of these responses include nonconfinement penalties (for example, a loss of work credits), we focus on the department's use of disciplinary confinement. Disciplinary confinement includes different types of specialized inmate housing designed to remove offenders from the general inmate population and limit their ability to commit further offenses. We focus on disciplinary confinement because its use requires significantly more resources than general population beds. In particular, these high-security housing options are expensive because they frequently require higher custody staffing levels, overtime, single-celling of inmates, and administrative workload. We estimate that CDC spends more than \$400 million each year on disciplinary confinement. Each of these disciplinary confinement alternatives is described below.

- ***Administrative Segregation Units (ASUs).*** All prisons have ASUs which are celled housing units used to hold inmates separate from the general prison population. According to departmental regulations, ASUs are intended to be temporary placements for inmates who, for a variety of reasons, constitute a threat to the security of the institution or the safety of staff and inmates. Typically, ASUs house inmates who participate in prison violence or commit other offenses. In addition, ASUs hold inmates who may be victims of violence by other inmates, who are awaiting investigation or prosecution by the local district attorney, or who are awaiting transfer to a Security Housing Unit or other facility. Inmates are placed in the ASU by correctional employees until the institution's classification staff decides on the appropriate penalties or new placement.
- ***Security Housing Units (SHUs).*** Four California prisons contain SHUs which are used to house the inmates the department considers to be the greatest threat to the safety and security of the institution. These "supermax" units are the most restrictive and secure in the state. Department regulations allow two types of inmates to be housed in SHUs. First, classification staff assign those inmates

who committed serious offenses in prison, such as assault or possession of a weapon, to determinate SHU terms of anywhere from two months to four years in duration depending on the nature of the incident. Second, the department assigns inmates it identifies as prison gang members to indeterminate SHU terms.

- **Lockdowns.** A lockdown (or what CDC refers to as “modified program”) occurs when a prison confines groups of inmates to their cells in response to a state of emergency. This happens when, for example, a riot or threat of a riot occurs. Wardens can authorize a lockdown if they believe that restricting the movement of inmates and suspending inmate programs is necessary to prevent a riot or an escalation of violence. Typically, entire housing units or certain groups within those units will be on lockdown. The inmates and housing units locked down depend on the situation that caused the state of emergency. Lockdowns are designed to be temporary situations until prison administrators resolve the state of emergency.

## **Disciplinary Confinement Practice Shortcomings**

*The California Department of Corrections is spending significant resources for disciplinary confinement, yet the department is unable to provide evidence that its current policies and procedures are effective at reducing prison violence and result in the most efficient use of General Fund dollars.*

### **No Evidence that CDC’s Methods Reduce Prison Violence**

The CDC is unable to provide evidence that its current use of disciplinary confinement is effective at reducing prison violence. The department correctly points out that removing dangerous offenders from the general population limits the ability of those offenders to commit further offenses, including violent offenses. However, the limited data available suggests that CDC continues to have significant difficulty controlling violence in prisons. As we noted above, serious inmate incidents have increased significantly in recent years, and inmate violence appears to be far more prevalent in California than in other large penal systems. The level of violence in the prison system may be explained, in part, by the department’s disciplinary confinement policies and practices, as discussed below.

### **CDC Does Not Utilize Risk Assessment for Inmates**

The department classifies inmates by security level to determine, for example, whether an inmate should be placed in maximum or medium

security housing. However, CDC does not do a risk assessment of inmates to identify which inmates within each institution are most likely to engage in in-prison violence based on factors associated with such behavior. These factors could include, for example, the pattern of past incidents in prison and personality characteristics, such as aggression. Other penal systems—such as Missouri, Washington, and some federal prisons—use formal risk assessment tools (also referred to as internal classification) to make population management decisions. For example, these tools allow prison staff to separate aggressive inmates from those most likely to be victimized.

Though evaluation research is limited, there is promising data that this approach is associated with reduced inmate misconduct, including fewer assaults on staff and other inmates. Because the department does not use risk assessment, it has no systematic way to target its supervision and program resources to those inmates most likely to pose behavioral problems. As a result, the department does not prevent some predictable violence from occurring. This, in turn, drives a higher need for disciplinary confinement than otherwise would be necessary.

### **Disciplinary Confinement Policies Do Not Target Most Dangerous Inmates**

Disciplinary confinement is certainly necessary for some inmate offenders. However, because housing inmates in ASUs, SHUs, and lockdowns is more expensive than placing them in general population beds, it is important that CDC be selective in choosing which inmates to place in disciplinary confinement. In other words, it is important to be sure that the inmates in disciplinary confinement who are driving state costs are really the ones who most require the additional security and staffing that disciplinary confinement provides. Yet, in many cases CDC policies do not prioritize which inmates it places in disciplinary confinement, namely those who are chronic or violent offenders, resulting in the inefficient use of state resources. We identify several examples of the inefficient use of disciplinary confinement below:

- ***ASUs Used for Nonserious Offenses.*** In several institutions we visited, ASUs contained inmates who had not committed serious offenses, including inmates who were threatened by other inmates, had arrived at the institution without their criminal history file, were awaiting actions by local district attorneys, or had committed nonviolent offenses in prison. The average daily population of ASUs was over 7,000 in 2003.
- ***SHUs Used for Nonviolent Offenses.*** Several nonviolent infractions, such as theft, bribery, and drug trafficking, can result in SHU sen-

tences. Moreover, a single incident can result in a SHU term, even if the inmate is not a chronic offender and the offense stems from an isolated incident. The average daily population of SHUs was 2,800 in 2003.

- ***SHU Use Not Targeted at Most Dangerous Gang Members.*** While the department identifies over 900 gangs in prison, it only places members of eight specified prison gangs in SHUs. As a result, there are many active gang members in prison who are ineligible for SHUs even though they may present a significant threat to safety. Moreover, the department places any confirmed member of the eight qualifying prison gangs in SHUs regardless of actual in-prison behavior. Consequently, the department's SHU placement policies do not necessarily target the most dangerous gang members in prison. Approximately half of the SHU population is comprised of confirmed gang members.
- ***Lockdowns Not Targeted in Their Use.*** Prison officials identified instituting lockdowns when fights break out among inmates, even when the number of inmates involved was small, no weapons were used, and there was no evidence of gang involvement. A department report generated for our office identified almost 600 lockdown incidents in 2002-03. In addition, the department does not have written procedures for the successful transition from a lockdown to normal programming, contributing to lockdowns in 2002-03 lasting over two months on average and some lasting the entire year at some institutions.

### **CDC Provides Few Transition Programs**

The CDC offers few programs for inmates designed to address the issues that led to their placement in disciplinary confinement and prepare them for reintegration into the general population. Instead, almost all inmates in ASUs, SHUs, and lockdowns are released from disciplinary confinement based on the decision of prison administrators or at the conclusion of a determinate SHU term.

As discussed later in this chapter, there is evidence that transition programs—focusing on such issues as life skills, anger management, substance abuse, or gang participation—reduce the likelihood that inmate participants will commit subsequent incidents in prisons and return to disciplinary confinement. Because CDC provides few such programs, some problem inmates are likely to reoffend when back in the general population because the underlying issues that led to their placement in disciplinary confinement have not been addressed. This increased likelihood of reoffending, therefore, results in some of these inmates returning to disci-

plinary confinement. It is also worth noting that some inmates are released from disciplinary confinement directly to parole. The fact that these new parolees also have not taken part in any transition programs could mean that some are at an increased risk to reoffend in the community.

One program that CDC does offer is the Transitional Housing Unit (THU) program. This is a 14-week transition program for gang dropouts in SHU to prepare them for reintegration into the general population. Program outcomes for the THU demonstrate some success, with only 2 percent of program completers returning to SHU. However, this program is limited in its use to Pelican Bay State Prison, and only 20 of the 1,400 prison gang members in SHUs can participate at one time.

## **Recommendations**

*In order to improve the disciplinary confinement process, we recommend that the California Department of Corrections (CDC) use its security expertise to develop uniform disciplinary confinement policies designed to target the most violent and chronic inmate offenders, adopt alternative and less expensive approaches to disciplinary confinement, and pilot test inmate risk assessment and transition programs. We believe these recommendations will allow CDC to be more systematic in its approach to prison violence and disciplinary confinement. Implementation of these recommendations would result in savings to the state through reduced and/or more efficient use of expensive disciplinary confinement beds, as well as a reduction in prison violence and other serious incidents, thereby improving staff and inmate safety.*

### **Develop Standard Policies Designed to Target Worst Inmates**

We recommend the adoption of trailer bill language requiring CDC to develop uniform prison policies designating the circumstances and procedures for placing inmates in and removing them from disciplinary confinement. These policies and procedures should be designed to reduce violence and serious incidents in prison by targeting violent and chronic inmate offenders for removal from the general population. The trailer bill should require CDC to:

- Develop policies regarding the placement of inmates in ASUs, including whether administrative segregation is the necessary and most cost-effective placement for nonviolent inmates, such as inmates who have been threatened or are awaiting district attorney actions.

- Rewrite its SHU placement policies to more accurately target the most violent and chronic offenders. In particular, the department should focus on creating better selection criteria for gang members to be placed in SHUs, perhaps by targeting gang members who commit serious or repeat offenses.
- Develop policies and procedures that ensure that lockdowns are only initiated and continued when evidence suggests that a lockdown is necessary to prevent escalations of violence. In addition, the department should develop uniform procedures for the transition from a lockdown to normal programming.
- Report to the Legislature no later than January 2006 regarding the development and implementation of these new policies and procedures to allow for legislative oversight.

By changing its placement policies and procedures, the department will be better able to prioritize which inmates it places in disciplinary confinement. In so doing, CDC will ensure that it is the most dangerous inmates who are removed from the general population and placed in more restrictive and more expensive states of confinement. As a result, the department should experience lower prison operating costs through reduced use of expensive disciplinary confinement, as well as medical, workers' compensation, and other costs associated with inmate offenses and violence.

### **Assess Options to Achieve Budget Year Savings**

The prior recommendation addressed longer term approaches to CDC's confinement policies which would result in savings but not for a couple of years in the future. However, we believe that some steps can be taken to realize savings in the budget year. Accordingly, we recommend that the Legislature require CDC to submit a report prior to budget hearings regarding the feasibility of implementing specified options designed to reduce the population of inmates held in disciplinary confinement, thereby achieving budget-year savings. In particular, the department should report on the feasibility of each of the following options as well as the amount of savings likely to be achieved. We estimate that the options discussed below would result in budget-year savings of approximately \$10 million annually depending on the number of inmates who are moved from disciplinary confinement to the general population.

*Confined to Quarters.* Prison administrators have the option of confining inmates who have committed rule violations to their cells, known as Confined to Quarters (CTQ). Prison administrators rarely utilize this option, instead relying more heavily on ASUs which is generally considered a more secure placement than CTQ. However, given the much lesser cost of

keeping inmates in their own cell as compared to ASUs, the department should determine if there are certain cases—for example, nonviolent offenders—where CTQ would be a more cost-effective housing option than ASU while still providing a reasonable level of security.

***Establish More Sensitive Needs Yards (SNYs).*** Currently, some California prisons have housing units called SNYs for inmates who might be targeted or victimized by other inmates—such as notorious inmates, sex offenders, and those who owe debts to other inmates. Often, the department houses these inmates in ASUs until there is an SNY bed available. According to department officials, this placement can take months because of the limited number of SNY beds available. The department should determine how many SNY-eligible inmates it has in its population to decide whether it has a sufficient number of SNY beds. To the extent that there is a deficiency in the number of SNY beds given the eligible population, the department should consider converting some general population housing units to SNYs. State savings would then be generated by transferring certain inmates from ASUs to SNYs because the department staffs SNYs like general population facilities—a lower staffing level than ASUs.

***Expand and Modify THU Program.*** The department currently operates the THU program for gang dropouts at Pelican Bay State Prison. Based on CDC statistics, inmates who complete this program are typically successful in their transition out of SHU, usually to SNYs. This success, as well as the small size of the current program, suggests that there may be an opportunity to expand this program either at Pelican Bay or at the three other prisons with SHUs, thereby allowing the department to safely reduce its SHU population. However, the feasibility of expansion may rest largely on two factors. First, the department must ensure that there are sufficient SNY beds available to accept an increase in demand from inmates transitioned out of the THU program.

Second, the department should reevaluate its current requirements for verifying gang dropouts. Currently, the department requires all validated gang members who are dropping out to provide information to the department regarding the names and activities of other gang members in order to leave SHU. While this information is valuable to gang investigators and helps to ensure that gang dropouts are sincere in their desires, a fear of reprisal limits the number of inmates who are willing to go through this process. Prison officials in some other states that offer gang transition programs report that they do not have this same requirement. Instead, they closely monitor inmate behavior while in the program and after release to the general population. These officials report that this approach has increased inmate willingness to participate in the program, allowed these inmates to be released to the general population rather than SNYs, and still resulted in a reduced reoffense rate by inmate participants.

Expansion of the THU program would require some costs to increase program staffing. However, these costs would be more than offset by reduced correctional staffing compared to SHU.

***Reduce the Number of Inmates in ASU Awaiting Criminal Proceedings.*** Some institutions house inmates accused of criminal offenses in ASUs until all investigative and court proceedings are concluded, a process that can take months and, in some cases, more than a year. Anecdotal evidence suggests that this practice may be common and used regardless of the severity of the incident. Prison administrators cite the need to keep inmate suspects from tampering with evidence as the reason for this practice. However, neither department regulations nor the district attorneys with whom we spoke require that inmates be kept in ASUs during the criminal court process.

The department should identify opportunities to reduce the number of inmates held in ASUs while awaiting criminal proceedings. Options for the department to consider include expediting the investigations and case referral processes, as well as establishing criteria to better prioritize which inmates accused of crimes need to be confined to ASUs versus alternative placements such as CTQ or even retention in the general population.

## **Develop Programs Designed to Reduce Serious Inmate Offenses**

We recommend that the Legislature consider using a share of any savings achieved by implementing the changes identified above to create two pilot programs designed to reduce inmate violence. If implemented in California prisons, these programs could make prisons safer and more secure, as well as generate significant long-term savings through lower costs associated with violence and a reduced reliance on disciplinary confinement. Ultimately, should these programs prove to be successful as pilots, the Legislature could consider expanding them to additional facilities at some future date. Each of these recommended programs is described below.

***Implement Pilot Risk Assessment Program.*** The department currently does not identify which inmates are most likely to be violent in prison. This deficiency limits the ability of the department to manage its population in such a way as to prevent violent incidents, thereby resulting in increased reliance on disciplinary confinement. Other states that have used risk assessment tools in prison have experienced reductions in the number of inmate assaults and other incidents, and increased staff and inmate safety. Based on these promising results, we recommend that the Legislature adopt budget bill language requiring CDC to implement on a pilot basis a risk assessment tool in a few of its institutions, and to use this information to better manage its population to prevent violent incidents. The costs to implement this program in a few prisons would likely not exceed \$1 million in

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order to cover the program's staffing, as well as administrative and evaluation costs.

***Develop Pilot Transition Program.*** As we indicated earlier, almost all inmates (with the exception of a small number of gang dropouts served by the THU program) are released from SHUs without having been provided transition services that address their reasons for being placed in disciplinary confinement or prepare them for reintegration into the general population. Several states, including Florida, Colorado, and Connecticut have developed such transition programs. These programs are for those states' most violent and chronic offenders housed in supermax settings. Evaluations of these programs demonstrate that inmate participants spend shorter periods in disciplinary confinement, and are less likely than non-participants to commit new prison offenses and return to disciplinary confinement.

An effective transition program modeled on these states would be divided into phases, each having its own specified security level and program privileges and restrictions. In addition, inmates would participate in a curriculum designed to address the causes of chronic disciplinary problems and prepare them for successful transition back to the general population, including such services as individual and group therapy and sessions on anger management, communication, and decision making. Inmates would progress from one phase to the next based on program participation and their ability to stay disciplinary free.

While implementation and staffing costs for a pilot program targeting 100 inmates serving determinate SHU terms could be as much as a couple million dollars, long-term savings would be generated in three ways and could be enough to fully offset program costs. First, the program should result in shorter SHU stays, particularly if focused on those currently committed to SHU sentences of a year or more. Second, an effective transition program would also result in a reduction in re-offenses committed by participants and, hence, fewer recommitments to ASUs and SHUs, as well as fewer staff and inmate injuries requiring medical attention. Third, advanced phases in the transition program should use double-celling of inmates, thereby more efficiently utilizing SHU capacity.

## **Conclusion**

We found that CDC is spending significant resources for disciplinary confinement, yet there is evidence that the department's current practices are not well targeted towards the goals of reducing prison violence and the efficient use of General Fund dollars. In order to improve the use of disciplinary confinement, we recommend several approaches which would re-

sult in savings to the state through reduced and more efficient use of expensive disciplinary confinement beds, as well as a reduction in prison violence and other serious incidents.

## **CORRECTIONAL ADMINISTRATION**

### ***Various Proposals Need Modification***

*We recommend a reduction of \$44 million requested in the Department of Corrections' budget for various costs that have not been justified. We also recommend that the department report to the Legislature regarding the unbudgeted activation of a community facility and camps. (Reduce Item 5240-001-0001 by \$44 million.)*

The proposed 2005-06 CDC budget includes funding related to salary savings adjustments, price increases, employee discipline, post relief (filling vacancies when staff take leave), the establishment of inmate beds at a state mental health facility, and population adjustments. Based on our review, we recommend reductions for these proposals that we have found are not justified, and offer other recommendations as outlined below.

- ***Salary Savings Adjustments.*** We recommend the deletion of the department's \$35 million request for funding to reduce its salary savings for "posted" and some other positions. Similar to other state departments, CDC's budget assumes that the department will achieve salary savings when position vacancies occur. According to the department, the salary savings adjustments have resulted in underfunding of posted positions which it proposes to address through the proposed augmentation. The department asserts that its budget assumes salary savings for some posted positions—such as correctional sergeants and registered nurses—even though these positions must be filled at all times. According to the department, this requirement to build in salary savings for posted positions even though they are continuously filled has resulted in unfunded costs which historically have been addressed through a deficiency appropriation or the redirection of funding from other parts of its budget. However, we have found that the department's budget historically has not assumed salary savings for posted positions. Therefore, the funding requested in this proposal is not justified. While the department may have some unfunded operational costs, the Governor's proposal does not identify these issues, nor does it estimate their impact on the department's budget.

- **Price Increase.** We recommend that the Legislature reduce the department's budget by \$5.9 million related to price increases for operating expenses and equipment expenditures (OE&E). According to administrative direction, the calculation for these price increases is supposed to be based on the level of funding for OE&E approved in the *2004-05 Budget Act* adjusted for any major one-time expenditures. We found that the department instead used an estimate of current year OE&E costs that was over \$200 million higher than the amount in the *2004-05 Budget Act*, resulting in an additional \$5.9 million requested for price increases.
- **Employee Discipline.** We recommend a reduction of \$100,000 and the reclassification of six correctional lieutenant and three correctional counselor II (specialist) positions to correctional sergeant positions. The department requests \$2.1 million and 20 positions to staff Employee Relations Offices (EROs) uniformly across prisons. These EROs do work related to employee discipline and labor relations. In part, the proposal would provide the EROs of each state prison with one employee dedicated to employee discipline issues. This would be achieved through the creation of new positions and reclassification of some existing positions. The department states that this proposal is designed to achieve uniformity across institutions. However, while most of the proposed employee discipline positions are classified as correctional sergeants, nine positions are either correctional lieutenants or correctional counselor II (specialist) positions. The department has provided no justification for using classifications other than correctional sergeants. Therefore, we think these nine positions should be reclassified to the correctional sergeant classification. Doing so would provide for consistency across institutions, make it easier for institutions to fill these positions, and be less expensive than the current classifications.
- **Post Relief for Noncustody Positions.** We recommend that the Legislature reduce CDC's request for post relief by \$2.5 million because of a technical budgeting error. The department has several noncustody posted positions in prisons. These are work assignments that must always be filled in order to support the department's responsibility to provide for full-time custody and care of inmates. These classifications are registered nurses, medical technical assistants, and supervising cooks. When these positions are left vacant because the person who normally fills that assignment has taken vacation or sick leave, for example, then another employee has to fill that position for the day, a process called post relief. The CDC has requested \$9.8 million to fund post relief for increased sick leave use and training requirements for

these three classifications. An overestimate of the number of supervising cook positions actually required for post relief resulted in a \$2.5 million technical error.

- ***Department of Mental Health (DMH) Beds.*** We recommend reduction of CDC's budget by \$758,000 in order to account for the transfer of inmates out of CDC beds into a mental health facility. In cooperation with the DMH, the department proposes to establish 50 beds at DMH's hospital at Coalinga for CDC inmates who require mental health treatment. The CDC inmates are scheduled for transfer to DMH in September 2005. While we do not raise concerns with the department's proposal, we found that the department did not adjust its population request for the 50 fewer inmates that will reside in CDC prisons.
- ***Community Correctional Facility (CCF) and Camp Openings.*** We recommend that the department report at budget hearings on the unbudgeted activation of new camps and a CCF. In the current year, the department plans to establish a contract with a private CCF. In addition, the department plans to convert two Youth Authority camps that are planned for closure to CDC camps. However, the costs of these new inmate facilities are not reflected in the Governor's budget. We estimate that the current-year costs for the CCF will be about \$1.2 million, and the camps will likely cost the state about \$300,000 to modify and operate. Most of these costs should be offset by the resulting reduction of overcrowding beds in existing CDC institutions. On balance, the activation of these facilities by CDC would probably result in no net costs.

## ***CDC Overutilizes Custody Employees in Headquarters***

*The California Department of Corrections (CDC) utilizes custody employees in headquarters positions that do not require peace officer status or involve custodial duties. In order to more efficiently staff CDC headquarters, we recommend that the Legislature reduce CDC's budget by \$1.3 million through a reduction in the number of headquarters positions filled with custody employees. These custody employees should be redirected to field positions. In addition, we recommend adoption of supplemental report language requiring the department to report on its progress implementing this recommendation. (Reduce Item 5240-001-0001 by \$1.3 million.)*

The CDC has approximately 3,200 positions assigned to its headquarters in Sacramento and regional administrative offices throughout the state. These positions are filled by a combination of staff with peace officer clas-

sifications—including, correctional officers, higher-ranking custody staff, and parole agents—as well as non-peace officer employees.

Based on discussions with the department, most headquarters positions are involved in the oversight, planning, or coordination of activities in CDC prisons and parole units. The duties of these positions are primarily administrative and analytical—not custodial—and involve tasks such as generating and reviewing reports, developing policies, coordinating activities in the field, and managing the department’s budget.

According to information from the State Controller’s Office, 880 of the total headquarters and regional office positions are filled with peace officer personnel, as shown in Figure 4. Of these, a couple hundred are actually field assignments that report to headquarters for administrative reasons, such as correctional officers who transport inmates among institutions. Based on information provided by the department, we estimate that approximately 600, about 20 percent, of actual headquarters positions are filled with custody employees performing administrative duties. By comparison, some other states with large penal systems report much lower usage of peace officers in their headquarters. For example, officials from Florida and Texas report that less than 5 percent of their headquarters is staffed with peace officers.

**Figure 4**

**Peace Officer Positions in CDC Headquarters And Regional Offices**

*As of January 2005*

	<b>Total Positions</b>	<b>Peace Officer Positions</b>	<b>Percent Peace Officer Positions</b>
Headquarters	2,796	820	29%
Regional offices	445	60	13
<b>Totals</b>	<b>3,241</b>	<b>880</b>	<b>27%</b>

Source: State Controller's Office.

The administration has proposed the reorganization of the Youth and Adult Correctional Agency (YACA) and is already moving forward with a consolidation of the administrative offices of YACA departments, the largest of which is CDC. As part of this reorganization, the agency has stated its intent to improve efficiency. In light of these proposed changes, we suggest that now would be an appropriate time for the department to recon-

sider which staff are assigned to administrative positions at headquarters and regional offices.

### **Current Practice Is Inefficient**

*Mismatch of Custodial Skills and Administrative Duties.* The department has chosen to fill about 600 headquarters administrative positions with custody personnel, a decision that results in inefficiencies in headquarters, as well as in the field. The department has pointed out that using custody personnel in headquarters can be beneficial because these staff have field experience that can be useful when developing policies or reviewing field activities. We agree that field expertise is beneficial for some headquarters positions. However, based on our review of duty statements, field experience is not the primary skill necessary for many of the positions currently filled with peace officer employees. Some examples of custody employees doing primarily administrative or analytical work include parole agents working as administrative assistants, correctional captains conducting audits, lieutenants reviewing budget proposals, and correctional counselors doing policy and legal analysis.

Custody staff in CDC are specifically trained to supervise inmates and parolees. Accordingly, relying on peace officers in headquarters does not allow the department to use its peace officers to their fullest capacity in the field where their training and skills can be most utilized. We note that the state has a number of noncustody classifications with education and training requirements better suited to headquarters duties and responsibilities. These classifications include auditors and program analysts, for example.

*Current Practices Drive Excess Costs.* The state compensates employees with peace officer classifications at higher levels than non-peace officers because of their specialized training and the inherent danger of their work. As a result, peace officers are typically more expensive personnel to use than the administrative or analytical classifications widely used in other state departments to perform similar duties. For example, the annual state cost for a correctional sergeant is about \$95,000, while the cost for an associate government program analyst is \$75,000. Therefore, in many cases, the state spends tens of thousands of dollars more for each CDC position that is filled with a custody employee instead of a classification with administrative or analytical training and skills.

Moreover, using custody employees in headquarters contributes to a persistent vacancy problem in CDC institutions, thereby resulting in costly overtime expenditures. Many peace officer positions in the field are required to be filled at all times, yet the department has difficulty filling many of these positions which results in vacancies. When these vacancies occur, the department must pay overtime to cover those posts. For example, the

500 correctional sergeant and lieutenant positions vacant in institutions contributed to \$45 million in overtime costs for those classifications in 2004. We recognize that the number of peace officer positions at headquarters is small compared to the number of peace officers in the field. Nonetheless, if there were fewer peace officers at headquarters, this would likely reduce the number of vacant positions in the field as well as the associated costs.

## LAO Recommendations

***Reduce CDC Funding to Achieve Savings.*** Based on our review of CDC's administrative positions, we believe that the department could reasonably reduce its percentage of peace officer positions in headquarters and regional offices by at least 3 percent. This level of reduction would be achieved through the reclassification of 100 peace officer positions to noncustody positions. Moreover, the reclassification of 100 positions would result in about \$1.3 million in savings in the budget year if implemented by January 1, 2006. Partial-year savings are assumed to allow the department sufficient time to identify the appropriate positions and negotiate with the affected employee unions. These savings would grow to approximately \$2.5 million on an annual basis beginning in 2006-07. The department could also achieve these savings by eliminating some positions, or through a combination of reclassification and elimination of positions.

Further, we have purposefully recommended a target reduction amount for the department rather than identifying specific positions to be reclassified or eliminated. We have taken this approach because we believe the department is in the best position to determine in which administrative units it most needs field expertise versus administrative or analytical skills. Whatever approach is chosen by the department, CDC should transfer the affected correctional personnel to field positions in the institutions and parole offices. This would enable the department to make better use of the skills of these employees, as well as fill critical vacancies in the field to reduce overtime costs. The department may incur some relocation costs to transfer these employees. However, we believe these costs, if any, would be minor and absorbable because of the small number of employees involved and the close proximity of several prisons to CDC headquarters.

***Fill Future Vacated Positions With Noncustody Personnel.*** In addition, the department should develop a policy that as headquarters positions become vacant in the future, the department will use noncustody staff in those positions and only use custody staff when the majority of work duties clearly require peace officer status or field experience. We recommend that the Legislature adopt supplemental report language requiring the department to report by January 1, 2006 regarding both the position changes made to achieve savings of \$1.3 million in 2005-06, as well as the steps

taken to ensure that positions that are vacated in the future are filled with noncustody classifications whenever possible. The following language is consistent with this recommendation:

*Item 5240-001-0001—California Department of Corrections.* The California Department of Corrections shall submit a report to the Legislature on or before January 1, 2006 on the conversion of peace officer positions in headquarters and regional offices to non-peace officer positions, consistent with the recommendations of the Legislative Analyst's Office and the *Analysis of the 2005-06 Budget Bill*. The report shall include the following: (1) a list of the positions in headquarters and regional offices that were reclassified or eliminated; (2) an estimate of the budget impact of these reclassifications and eliminations; and (3) the department's plan for ensuring that future position vacancies are filled with non-peace officer classifications whenever possible.

Our recommendations would improve the overall effectiveness of CDC headquarters by more closely matching employee skills and training with the primary duties or functions of headquarters. In addition, these steps will result in cost savings by using less expensive classifications in headquarters and relying less on overtime in the prisons.

## CORRECTIONAL MEDICAL CARE

### *Inmate Medical Proposal Consistent With Court Order*

*The Governor's budget requests funds to comply with a September 2004 court order stemming from the Plata v. Davis settlement agreement reached in 2001. In this piece, we (1) provide background information on the Plata v. Davis lawsuit and settlement agreement, as well as the recent court order, (2) discuss our assessment of the budget request, as well as issues for legislative oversight, and (3) recommend specific reductions totaling approximately \$3 million. (Reduce Item 5240-001-0001 by \$3 million.)*

#### **Background**

**Plata v. Davis Settlement Agreement.** In April 2001, *Plata v. Davis* was filed in federal court contending that CDC was in violation of the Eighth and Fourteenth amendments of the United States Constitution by providing inadequate medical care to prison inmates. Some specific examples of key issues raised in the case include (1) the lack of nationally recognized medical guidelines for managing inmates with chronic illnesses, (2) inappropriate and inconsistent medical follow-up visits, (3) inadequate number of registered nurses, and (4) poor coordination between medical and custody staff.

In January 2002, the state entered into a settlement agreement, committing to significant changes in the delivery of health care services to inmates. Generally, the settlement agreement focuses on improving inmate access to health care, as well as the quality of health care services provided in the prisons. Under the agreement, independent court-appointed medical experts monitor the implementation of the agreement, and periodically report to the court on the state's progress in complying with the agreement.

*Previous Legislative Action.* In response to the *Plata* settlement agreement, the Legislature—as part of the *2002-03 Budget Act*—approved a multi-year plan authorizing nearly 1,400 health related positions to be phased in over a six-year period at a cost of approximately \$90 million annually when fully implemented. Under the proposal, policy changes and health staff were to be phased in at five to eight prisons per year beginning in 2002-03 and ending in 2007-08. Figure 5 shows the funding and positions.

**Figure 5*****Plata* Positions and Funding**

*2002-03 Through 2007-08*  
(Dollars in Thousands)

Fiscal Year	Positions	Costs	
		Ongoing	Onetime
2002-03	220	\$21,386	\$4,341
2003-04	257	14,121	5,520
2004-05	238	13,647	2,924
2005-06	205	11,629	2,999
2006-07	210	11,580	2,970
2007-08	269	14,353	3,136
<b>Totals</b>	<b>1,399</b>	<b>\$86,716</b>	<b>\$21,890</b>
<b>Total Cost for Six Years</b>			<b>\$108,606</b>

Generally, the resources provided in the *2002-03 Budget Act* are being used to achieve two objectives. The first objective is to establish a management structure at headquarters to oversee the inmate health care delivery system and implement the *Plata* requirements. In order to do this, teams of health care professionals—called Quality Medical Assistance Teams (QMATs)—are deployed from headquarters to each institution in order to implement new clinical policies and procedures, and train prison staff on those changes. The second objective is to increase inmate access to health

care by providing more staff to work in prison clinics and hospitals (medical technical assistants, nurses, and records technicians), and more security staff to manage medical escorts (associate wardens, facility captains, and correctional officers).

***How the State Reaches Full Compliance.*** Under the *Plata* settlement agreement, all 33 prisons must be in “substantial compliance” before the state is released from the settlement agreement. A prison is determined to be in substantial compliance when it meets a number of conditions, the primary one being a score of 85 percent on two separate audits using an audit instrument developed by CDC, the independent court medical experts, and plaintiff’s counsel. When CDC determines that an institution is in substantial compliance, it notifies the court medical experts who conduct an audit within 60 days to determine compliance. If the experts determine the prison is in substantial compliance, they return a year later for a second audit to determine if the prison has maintained substantial compliance.

***Where Are We Today?*** To date, 17 prisons have begun to implement the changes required by *Plata*. According to CDC, no institution has fully implemented all of the policies and procedures, and each is at varying degrees of compliance. The department has conducted audits of the 2003-rollout institutions to establish a baseline. Some prisons scored 50 percent on these baseline audits. The CDC expects to have its first official audits by the court-appointed medical experts at several prisons in 2006-07.

***Recent Court Order Requires Further Improvements Under Plata.*** In September 2004, the federal court issued a second order requiring further improvements to inmate medical care. This second court order was based on the observations and recommendations of the court medical experts, and the plaintiff’s attorneys. In particular, after visiting several prisons, the court-appointed medical experts concluded in a report to the federal court that many CDC doctors were not trained to provide the treatment they were administering to inmates. The report also indicated that there is a lack of departmental oversight of the delivery of inmate health care, and that individual prisons operate with a high degree of autonomy.

In response to these findings, the new court order requires the state to take specific actions in the current and budget years related to (1) physician evaluation and training, (2) treatment of patients with chronic and high-risk medical conditions, (3) physician and nursing classification and supervision, and (4) QMATs.

***The Budget Proposal.*** The Governor’s budget requests \$30.1 million (General Fund) and 109 full-time positions to address the specific requirements of the September 2004 court order. Below we provide a brief summary of the major requirements of the court order, and how the Governor’s budget request proposes to address each.

- ***Physician Evaluation and Training***—To address concerns raised by the court medical experts regarding the quality of CDC medical staff, the federal court order requires the state to contract with an independent entity to evaluate and train CDC physicians.

The budget requests \$14.7 million for two interagency agreements with the University of California (UC): one with UC San Diego for physician assessment and training, medical credentialing and peer review, the other with UC San Francisco for on-site physician consultations.

- ***Treatment of “High-Risk” Patients***—The court order requires the state to develop a plan for identifying and treating high risk patients at all institutions. This target group consists of inmates who have acute conditions caused by a severe episode of illness, or an injury related to an accident or other trauma. The order further requires the state to contract with independent physicians to evaluate and treat high-risk patients at selected institutions, until those institutions have qualified staff to treat these patients. (The specific prisons consist of California State Prison, Sacramento; California State Prison, Corcoran; Central California Women’s Facility; and Salinas Valley State Prison.) Finally, it requires that these institutions have adequate nursing and administrative support staff to assist the independent physicians.

The budget requests \$2.9 million (eight positions) to hire medical directors and to contract for outside personnel to supervise and train prison health care professionals in prisons that lack a medical director. (The majority of these funds is for contract staff.)

- ***Physician and Nursing Classification and Supervision***. The court order requires the state to take a number of actions to address the difficulty of recruiting medical professionals to work in prison. Specifically, it requires CDC to submit a proposal to reclassify all physician categories. Additionally, the court order requires the state to hire medical directors, as well as directors of nursing (a new classification) at both the headquarters and regional level.

The budget requests \$2.2 million (19 positions) to hire a statewide Director of Nursing and clinical staff at the regional level (in each of the three regions) to oversee clinical and nursing operations in the prisons. It also requests \$67,000 for recruitment and retention bonuses for the Physician and Surgeon classification.

- ***QMATs and Other Support***—The court order requires the state to establish no less than nine additional QMATs to assist in the rollout of policy and procedure changes. Finally, the court order requires

the state to provide one position at each institution to support implementation of the Inmate Medical Scheduling and Tracking System (IMSATS). This system was developed by one of the medical experts under contract with CDC to assist in the implementation of *Plata*.

The budget requests \$7.1 million (53 positions) to establish nine additional QMATs. It also requests \$2.4 million (29 positions) to implement the IMSATS, and \$738,000 for an evaluation and management analysis (\$300,000) and printing (\$438,000).

In addition to the \$30.1 million budget request described here, the budget provides \$15 million—as a “base adjustment”—to continue to rollout *Plata* reforms at five more institutions pursuant to the 2002-03 proposal already approved by the Legislature.

### **Issues for Legislative Consideration**

Overall, our analysis indicates that the administration’s budget request is consistent with the requirements of the new court order in terms of its content. It appears to address the court order’s major provisions. Based on our review and discussions with department staff, we identify a number of issues and recommendations for legislative consideration.

***Future Costs of Plata Settlement Likely.*** Based on our discussions with the department, we think there is likely to be future increased costs for the inmate health care delivery system. In particular, future requests for funding would likely include spending to (1) develop and implement a health information system, (2) attract quality health care professionals, and (3) address space requirements to accommodate added staff and equipment. At the time of our analysis, the department did not have an estimate of the potential cost to address these issues.

***No Savings Estimates.*** At this time, we believe the department’s estimates potentially overstate the costs of its medical proposal. This is because the department’s health care budget does not reflect any anticipated savings from the implementation of the *Plata* reforms. For example, according to the state’s independent medical expert, currently many expensive community hospital visits occur because some CDC health professionals do not have the proper training to diagnose and/or treat some medical conditions confronting them. By providing funds to evaluate and, if needed, train CDC health care professionals in clinical practice, the proposal before the Legislature will likely reduce the department’s need to rely on contract medical services provided by outside hospitals. This, in turn, would also reduce the attendant medical guarding costs. Given that much of the request would be implemented in the current year, there should be some

level of efficiency savings in the budget year. At the time this analysis was prepared, the department did not have an estimate of the potential savings.

**Vacancy Rate Remains High for Health Care Positions.** One of the key challenges facing the department is the requirement to hire certain health care professionals, in particular registered nurses and doctors, to work in the prison system. To some extent, the state's ability to reach compliance with the *Plata* agreement depends on the resolution of this longstanding problem. In order to address this issue, the Legislature has approved over the years several recruitment and retention (R&R) bonuses for health care positions. In 2002-03, for example, as part of the initial *Plata* request, the Legislature approved R&R bonuses for all classifications of registered nurse positions. However, vacancy information provided by the department shows that vacancy rates in key health care positions remain high. As Figure 6 shows, between 2001 and 2004 the vacancy rate for all but one position classification has increased.

**Figure 6**

**High Vacancy Rates Persist in Key Health Care Positions**

Classification Title	Vacancy Rate	
	January 2001	November 2004
Physician and Surgeon	8.0%	7.5%
Pharmacists <sup>a</sup>	27.0	39.9
Registered Nurse <sup>b</sup>	22.0	26.0
Medical Technical Assistants	15.0	21.3

<sup>a</sup> Includes Pharmacist I and II positions.  
<sup>b</sup> Includes supervising and surgical RN positions.  
Source: California Department of Corrections.

In response to the September 2004 court order, the Governor's budget proposes another round of R&R bonuses, this time for the physician and surgeon classification. Additionally, it is our understanding based on discussions with CDC that the Department of Personnel Administration (DPA) and a number of other departments are working together to develop a new salary structure for registered nurse classifications by the end of March 2005.

We recommend that CDC and DPA report at the time of budget hearings on (1) how the proposed R&R bonuses will improve recruitment given the state's experience to date with such bonuses, and (2) the outcome of its multi-agency project to develop a new salary structure for nurse classifica-

tions, in particular its estimated cost and whether and to what extent the new salary structure would make the state competitive in recruiting nurses

***Lack of Health Information System Continues to Be a Problem.*** Inmates regularly transfer from one prison facility to another. In addition, many inmates leave the prison system only to return shortly thereafter. This constant movement, combined with the large scale of California's prisons, makes tracking medical records, administering medication, and scheduling clinic visits a significant challenge. Currently, inmate medical records are paper based. This makes keeping track of inmate health care cumbersome and extremely time consuming.

Although the department currently uses its Distributed Data Processing System to collect and track some health-related information, such as inmate Tuberculosis test results, this system is very limited because it is outdated, and it is a "stand alone" system which means that information cannot be easily shared with other facilities. Moreover, the prison health facilities generally lack connectivity either through a local area network or a wide area network, further limiting information sharing. Consequently, regional staff, who are responsible for oversight of the health care delivery system, have limited access to information that is required to effectively monitor the delivery of services. As a result, these staff will not be able to examine or analyze by computer such variables as treatment outcomes, referral patterns, procedures performed, and tests ordered. Instead, they will be required to manually review paper reports submitted by each of the prisons, a process that is inefficient, and certainly less effective than computer-based analysis at identifying potential problem areas in prison health care delivery.

In its YACA Strategic Plan, the administration proposes to develop and implement an integrated and automated inmate health information system by 2010. As we mentioned earlier in this analysis, the budget includes \$2.4 million and 26 positions to implement IMSATS. Although implementation of IMSATS is required by the September 2004 court order, we note that the system appears to be an "interim" information technology solution rather than a long-term solution for inmate scheduling and tracking. This is because it simply builds upon the existing outdated system.

We recommend that the Legislature direct the department to report at budget hearings on its plan for implementing a comprehensive health information system, and how the proposed IMSATS fits within that plan. Specifically, the department should report on any progress it has made to date regarding the development of an automated health information system, whether the system would include electronic medical records, and the estimated cost of development and implementation.

**More CDC Accountability Needed.** The department has indicated that it is likely there will be future requests for additional funding to enable the prisons to reach substantial compliance with the court order. Given the potential magnitude of the state's investment in the prison health care system under the *Plata* court order, the Legislature should require CDC to report periodically on a number of key indicators of its progress. This would allow the Legislature to assess the extent to which the investment of public resources is making a difference in the quality of the health care delivery system in the prisons, thereby moving the state toward full compliance with the court order.

Some key indicators of progress include, for example, the number of inmate appeals related to health care, and the number of in-patient days inmates spend in contract hospitals. If inmate access to health care improves, one would expect the number of inmate health-related appeals to decline. To the extent that CDC medical staff are better trained in primary care clinical practices, one could reasonably expect the number of bed days in outside contract hospitals to decline. Health care information, such as health facility census data, is currently collected through the Health Care Cost and Utilization Program. The department should be reviewing such data on a regular basis to monitor its progress. Therefore, providing prison health care information to the Legislature should not result in significant additional workload.

Accordingly, we recommend that the Legislature adopt supplemental report language (SRL) that directs CDC to annually provide the Legislature information on the inmate health care delivery system, including health facility census data and information on medical related inmate appeals, so that the Legislature may track the department's progress in improving the inmate health care program. The following supplemental report language is consistent with this recommendation.

On or before December 1, the California Department of Corrections shall annually provide a report to the chairs of the fiscal committees in both houses on the status of the implementation of the *Plata* settlement agreement. The report to the Legislature shall identify specific outcomes relating to the settlement agreement and its goal of providing increased access and higher quality health care services. The report shall include information on medical related inmate appeals, medical staff vacancies, and census data (bed usage) for each prison and community hospital facility.

**UC and CDC Partnership Has Merit, but the Proposal Is Not Fully Developed.** One of the many recommendations of the California Independent Review Panel was that CDC form partnerships with outside health care entities and seek opportunities to shift the delivery of health care services to these entities. Although the proposed interagency agreements between CDC and UC do not go as far as shifting the delivery of care to UC,

the proposal provides the state—particularly CDC and UC—a valuable opportunity to assess the potential for further collaboration. Other states, including Florida and Texas, report substantial benefits to correctional providers and university medical programs from forming such partnerships. Some of the potential benefits include (1) continued learning for prison health care staff; (2) opportunities for clinical research in a unique health care environment; and (3) more cost-effective health care delivery.

At the time this analysis was prepared, the specifics of the proposed interagency agreements had not been finalized. As a result, the proposed budget amounts requested do not reflect a specific proposal that has been agreed to by CDC and UC. Therefore, we withhold recommendation of this component of the department's budget request, pending additional information on the specific agreements between CDC and UC. We recommend that the department report at the time of budget hearings regarding the status of this proposal.

**Several Budget Adjustments Needed.** In reviewing the proposal, we identified a number of positions and other expenses that are not justified, as well as some technical adjustments that should be made to correct calculations and minor inconsistencies. Based upon our review of the court order, and our discussions with the department, we think that our recommended adjustments, resulting in savings of approximately \$3 million, can be adopted without violating the court order.

- **Facility Captain Positions Not Justified.** The budget requests 12 Facility Captain positions (three for the regional offices, and nine for QMATs to train security staff on policies and procedures designed to ensure that inmates are escorted in a timely manner to medical appointments. Based on our review, we think the department should be able to absorb this workload using existing positions. As we discuss in our analysis of CDC's use of custody positions at headquarters, we think there are a number of custody positions that are currently used to perform tasks that could be performed using lower-cost position classifications. Reclassifying some of these custody positions to lower-cost classifications would free up funds and custody staff that could be redirected to assist with the rollout of *Plata*.

Additionally, we note that the *2002-03 Budget Act* already established many positions to implement operational changes related to medical escort. These consist of 33 Associate Warden for Health Care positions (one for each prison), six Facility Captain positions—two for each of the regional health offices, and more than 280 correctional officer positions. Finally, escorting inmates back and forth safely and securely is a function that many correctional officers

perform on a regular basis under the supervision of sergeants and lieutenants. These sergeants and lieutenants should be able to train their staff on any *Plata*-related policy and procedure changes related to medical escorts. For these reasons, we recommend not approving the new request for an additional 12 Facility Captain positions, and reducing the budget by \$1.6 million.

- ***Staff Counsel Positions Not Justified.*** The budget requests four Staff Counsel positions to accompany the plaintiff's attorney(s) on prison tours as they monitor state implementation of the settlement agreement, to review health related records, and, if needed, respond to the plaintiff's attorneys. Currently, the department has one Staff Counsel to handle the legal workload associated with the implementation of *Plata*. The budget request therefore represents a four-fold increase in legal staff for *Plata* implementation. Based on our discussions with the department, it seems that the biggest challenge currently facing legal staff is the extraordinary travel associated with prison tours conducted by plaintiff's counsel.

While we agree that the department should have its attorneys tour the prison medical facilities with the plaintiff's attorneys, we believe the department can manage the workload with only two new Staff Counsel positions. With the two new Staff Counsel positions we are recommending, and the one existing Staff Counsel, the department can assign one Staff Counsel position to each of the three institution regions.

We recognize that there could be increased legal workload in the future, as the state will likely be under the existing court order for several years. However, should the legal analysis workload temporarily increase, the department has the option of redirecting legal staff from other activities, or obtaining legal services on a temporary basis from the state Department of Justice. For these reasons, we recommend not approving two of the four Staff Counsel positions requested by the department for savings of approximately \$323,000.

- ***Extraordinary Travel Expenses.*** For each of the Facility Captain and Staff Counsel positions we recommended not approving, the budget includes funding for extraordinary travel expenses. To be consistent with our recommendation on those positions, we also recommend reducing the department's travel budget by \$730,000.
- ***Office Space No Longer Needed.*** The budget requests funds to lease additional space for central and southern regional offices. However, CDC staff has indicated that additional space is no longer needed due to the relocation of the Law Enforcement and Investi-

gations Unit and other staff from the regional offices to headquarters in Sacramento. For this reason, we recommend reducing the budget by \$275,328.

- ***Nursing Request Is Inconsistent.*** The Governor's budget requests four "Director of Nursing" positions, one to serve as a statewide Director of Nursing, and the remaining three to serve as regional directors responsible for implementation and maintenance of clinical policies and procedures. This is consistent with the very specific requirements of the court order related to nursing classifications and supervision. Therefore, we have no concerns with these positions and recommend approval. However, we note that the budget is inconsistent in that the request states that the regional nurse directors are to be compensated at the CEA I level; yet the associated salaries and wages indicate that these positions were actually budgeted at the CEA II level. In light of the difficulties the department has faced in recruiting nurses, we are not recommending reducing the budget at this time since the additional salary increment may enable the department to attract highly qualified candidates for these positions. However, the Legislature may wish to direct the department to report at budget hearings on its plan for recruiting for these positions, and the appropriate salary level. If these positions were budgeted at the CEA I level, it would reduce the request by approximately \$70,000.

## **The Bottom Line**

Overall, we find CDC's budget request to be consistent with the September 2004 court order, and therefore recommend adoption of the request—albeit with a few modifications. We recommend the Legislature direct CDC and DPA to report on recent efforts to design a new salary structure for nurse classifications. We recommend the adoption of SRL requiring CDC to annually provide information that would allow the Legislature to assess the department's progress toward attaining the goals of the *Plata* settlement agreement. Finally, we recommend that the department report on its plan to develop and implement an automated inmate health information system by 2010.

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## **Accessing Federal Funds for Prenatal Services**

### **Federal Option Opens the Door to State Savings For Incarcerated Women**

*We recommend that the Legislature approve the administration's proposal to draw down federal funds to offset state costs for prenatal services provided under state health programs. We also examine the feasibility of expanding this option to include an offset of state costs for prenatal services provided to pregnant incarcerated women.*

We discuss our proposal to access federal funds for prenatal services provided to pregnant incarcerated women in the Crosscutting Issues section of the "Health and Social Services" chapter.



## BOARD OF CORRECTIONS (5430)

The state's Board of Corrections oversees the operations of the state's local jails by establishing jail standards, inspecting facilities biennially, administering jail bond and federal construction funds, and establishing staff training standards. In addition, the board maintains data on the state's jails. The board also sets standards for, and inspects, local juvenile detention facilities. The board is also responsible for the administration of juvenile justice grant programs.

**Governor's Budget.** The budget proposes total expenditures of approximately \$73 million in 2005-06. This is a decrease of approximately \$109 million or 60 percent from the current year. General Fund expenditures are proposed to total approximately \$30 million in the budget year, which is a decrease of \$108 million or 79 percent. The General Fund decrease is primarily a result of the proposed shift of funding for county probation grants from the General Fund to federal Temporary Assistance to Needy Families funds. The budget also includes approximately \$41 million in federal funds.

### Position Justification Required

*We withhold recommendation on \$2.7 million requested from the Corrections Training Fund for the Standards and Training for Corrections Program, pending receipt of a report by the department prior to budget hearings on the workload associated with the program.*

**Background.** The Standards and Training for Corrections (STC) program was established by Chapter 1148, Statutes of 1979 (SB 924, Smith), which required the Board of Corrections to (1) develop minimum standards for the recruitment, selection, and training of local corrections and probation officers; and (2) assist local corrections and probation agencies through grants from the Corrections Training Fund (CTF). Revenues for the CTF are derived from the penalty assessments on traffic and criminal fines.

Under the program, local governments were required to meet Board of Corrections standards as a condition of receiving the grants.

The budget requests 18 positions and \$2.7 million for support of the STC program in 2005-06.

***Analyst's Recommendation.*** The 2003-04 Budget Act discontinued the local assistance grants, thereby reducing the workload for program staff. However, no adjustment was made in the program staffing or funding level to reflect the reduced workload. We would note that three of the 18 positions currently in the program's budget are vacant.

We withhold recommendation regarding the program pending receipt of position and workload justification by the department. As stated above, the discontinuing of local assistance funding should have resulted in a reduction in workload, thereby reducing the number of staff needed to provide technical assistance to cities and counties regarding standards and training. According to the department, it has experienced an increase in workload related to providing technical assistance in course design and instructor development and training course certifications for local law enforcement, and that this workload justifies the continuation of its existing positions. While this may be the case, at the time of our analysis, specific justification for the 18 positions included in the budget had not been provided. Additionally, we would note that the Commission on Peace Officer Standards and Training (CPOST) also certifies training courses for local law enforcement professionals. Generally, the CPOST is responsible for establishing minimum selection and training standards for local law enforcement officers. For these reasons, we withhold recommendation on the \$2.7 million requested for the STC program, and recommend that the Legislature direct the Board of Corrections to report prior to budget hearings on the STC program staff's workload, and how staff workload related to training course certifications is different from the services provided by CPOST.

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## **DEPARTMENT OF THE YOUTH AUTHORITY (5460)**

The Department of the Youth Authority is responsible for the protection of society from the criminal and delinquent behavior of young people (generally ages 12 to 24, average age 19). The department operates training and treatment programs that seek to educate, correct, and rehabilitate youthful offenders rather than punish them. The department operates eight institutions, including three reception centers/clinics and two conservation camps. In addition, the department supervises parolees through 16 offices located throughout the state.

### **BUDGET PROPOSAL**

The Governor's budget proposes total expenditures of \$400 million for the Youth Authority in 2005-06. This is \$8.1 million, or about 2 percent, below estimated current-year expenditures. General Fund expenditures are proposed to total \$316 million in the budget year, a decrease of \$4.6 million, or 1.4 percent, below expenditures in 2004-05. The department's proposed General Fund expenditures include approximately \$35 million in Proposition 98 education funds. The Youth Authority also estimates that it will receive about \$48 million in reimbursements in 2005-06. These reimbursements primarily come from fees paid by counties for wards sent to the Youth Authority.

The decrease in General Fund spending in the budget year is the result of proposed conservation camp closures, as well as a projected decrease in the institution and parole populations.

### **WHO IS IN THE YOUTH AUTHORITY?**

There are several ways that an individual can be committed to the Youth Authority's institution and camp populations, including:

- **Juvenile Court Admissions.** Most first-time admissions to the Youth Authority are made by juvenile courts. As of December 31, 2004, 96.8 percent of the institutional population was committed by juvenile courts and included offenders who have committed both misdemeanors and felonies.
- **Criminal Court Commitments.** As of December 31, 2004, approximately 3.2 percent of the Youth Authority institution population was committed by criminal courts. This includes juveniles committed directly to the Youth Authority after being tried and convicted as adults, as well as juveniles committed to the California Department of Corrections (CDC) but who were transferred to the Youth Authority. The fundamental difference between these two groups of juveniles is the court commitment offense. Juveniles committed to CDC (and transferred to the Youth Authority) were convicted of very serious criminal offenses such as murder, rape, and other specified felony sex offenses. These juveniles may be transferred to the CDC prison system at the age of 18.
- **Parole Violators.** These are parolees who violate a condition of parole and are returned to the Youth Authority. In addition, some parolees are recommitted to the Youth Authority if they commit a new offense while on parole.

**Characteristics of the Youth Authority Wards.** Wards in Youth Authority institutions are predominately male, 19 years old on average, and come primarily from Southern California. Hispanics make up the largest ethnic group in Youth Authority institutions, accounting for 50 percent of the total population. African Americans make up 30 percent of the population, Caucasian are 15 percent, and Asians and others are approximately 5 percent.

## POPULATION ISSUES

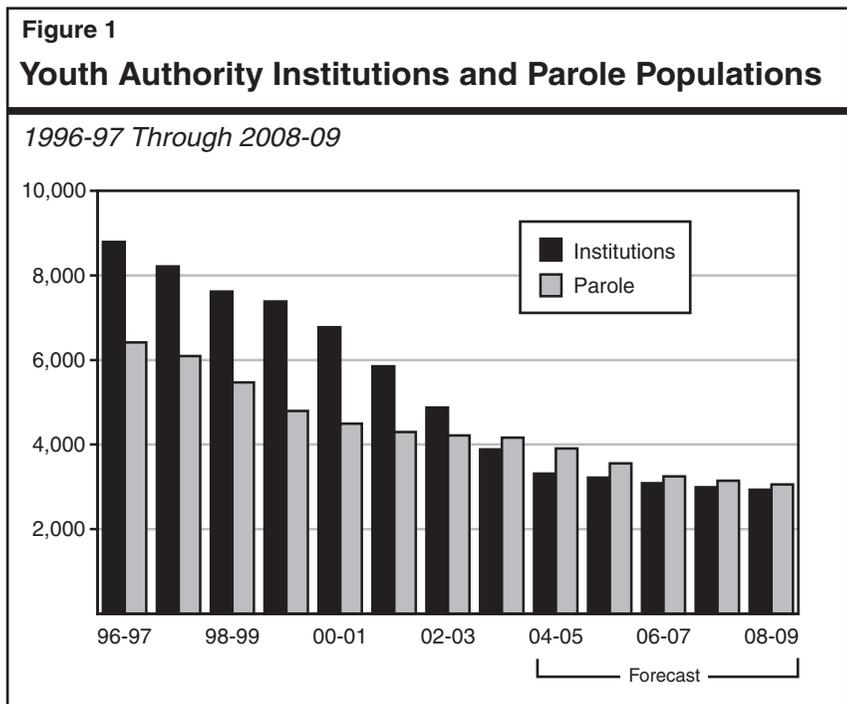
### **Ward and Parolee Populations Projected to Decline: Projections Will Be Updated in May**

*We withhold recommendation on the population assumptions included in the budget pending receipt of the May Revision. We recommend the administration provide, as part of its updated spring population projections, an estimate of the impact of the Governor's juvenile justice reform proposal on the Youth Authority population.*

**Ward and Parolee Populations in the Budget Year.** The Youth Authority projects that the ward population will continue to decrease, declining by 465 wards, or 12 percent, from 3,895 wards at the end of the current year to

3,430 wards by the end of the budget year, and then decrease to 3,045 by the end of 2008-09 (June 2009).

The number of parolees is projected to increase just slightly from 3,755 wards at the end of the current year to just under 3,790 by the end of the budget year, and then decrease to 2,970 by the end of 2008-09 (June 2009). Figure 1 shows the Youth Authority's institutional and parolee populations from 1996-97 through 2008-09. As the figure shows, beginning in 2003-04, the parole population is slightly greater than the institution population and is projected to remain greater through 2008-09. This is primarily a result of (1) a declining rate of new admissions into the Youth Authority and (2) an increasing average length of time that a ward is on parole.



***Projections Do Not Reflect Governor's Juvenile Justice Reform Proposals.*** The budget indicates that the administration is developing a juvenile justice reform proposal that may be implemented in 2005-06. Although specific details are lacking, the budget suggests the proposal will likely include (1) shifting the Youth Authority's parole responsibilities to the counties and (2) developing and implementing new guidelines regarding which juveniles should be sent to the Youth Authority versus those that should be housed in local facilities. We expect these changes would have

the effect of decreasing the ward population. For this reason, we recommend the Legislature direct the Youth Authority to incorporate into its spring population projections an estimate of the impact of the Governor's policy proposals on the Youth Authority's future population.

## CAMP CLOSURES

### **Proposal to Close Camps Has Merit, But Camp Conversion Needs Legislative Review**

*We recommend approval of the proposed closure of Ben Lomond and Washington Ridge Youth Conservation Camps, along with the Preston Youth Correctional Facility Pre-Camp, because of the substantial decline that has occurred in the ward population and the resulting decline of camp-eligible wards. However, we recommend the Legislature direct the administration to report prior to budget hearings on its proposal to convert the camps into adult inmate camps because the budget provides no information or justification regarding this proposal.*

**Background.** The Youth Authority, in conjunction with the California Department of Forestry and Fire Protection, operates four youth conservation camps and a pre-camp, which prepares and trains the wards for camp. The camps employ wards in a variety of tasks, including fire prevention and conservation projects to help them develop good work habits and leadership skills. In total, the camps currently have the capacity to serve as many as 300 "minimum security" wards. However, in 2004-05, only 248 wards are participating in the camp program. According to Youth Authority staff, the overall decline in the number of wards during the last few years has made it difficult for the department to identify wards who meet the minimum security criteria.

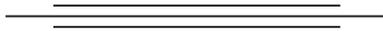
**Governor's Proposal.** The Governor's budget proposes to close Ben Lomond Youth Conservation Camp (located in Santa Cruz), Washington Ridge Youth Conservation Camp (located in Nevada City) and Preston Youth Correctional Pre-Camp (located in Ione) by March 2005 for an estimated savings of \$2.3 million in the current year and \$6.7 million in the budget year. The administration proposes to convert these camps into adult conservation camps for Level I and II inmates during the current year.

**Recommend Approval of Camp Closures.** We think the closures have merit because it would allow the remaining camps—Pine Grove Conservation Camp (located in Amador County) and Ventura Youth Correctional Camp (located in Ventura County)—to operate at or near capacity, thereby reducing the average cost per ward to operate the remaining camps. Based on our discussions with Youth Authority staff, it is our understanding that

approximately 74 wards would be relocated to the Pine Grove and Ventura camps as a result of the camp closures in Northern California. The Youth Authority staff also indicated that services to the wards would not be disrupted by the proposed closures because the services provided at the camps are comparable.

***Savings From Closures Overstated.*** We would note that the current-year savings of \$2.3 million included in the budget from closure of the camps is overstated. This is because there was a delay in issuing closure notices to affected staff. According to the department, this will likely result in the camp closures occurring in May, rather than March as the budget assumes. In addition, there is a technical error related to workers' compensation costs. Accordingly, the department may need an additional \$2 million in the current year (which may require a supplemental appropriation) to operate the camps for two additional months.

***Recommend Administration Report on Proposed Conversion to Adult Camps.*** It is our understanding that CDC planned to begin modifying the camps to accommodate adult inmates in March with CDC inmates moving into the converted camps beginning in May. However, due to delays in closing the camps, this is not likely to occur until May 2005 at the earliest. Given that the budget provides no details regarding the cost of, or justification for, this proposal, we recommend the Legislature direct the administration to report prior to budget hearings on the proposed camp conversions. Specifically, the administration should report on (1) potential uses of the camps, (2) the cost and timing of the proposed conversion and modifications, and (3) the fiscal- and population-related impact to the CDC budget.



# FINDINGS AND RECOMMENDATIONS

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### Crosscutting

#### *Proposition 69-DNA Collection*

- D-13 ■ **Department of Justice Proposal Appears Reasonable.** We recommend the Legislature approve the department's proposal to begin implementing Proposition 69 because, based on our review, the proposal appears reasonable.
- D-13 ■ **California Department of Corrections (CDC) Proposals Overbudgeted. Reduce Item 5240-001-0001 by \$1,812,000 in 2004-05, and by \$3,465,000 in 2005-06.** The budget for CDC proposes funding in the current and budget years for the collection of DNA samples from inmates and parolees in compliance with Proposition 69. The proposal includes several overestimated costs. We recommend reduction of the funding proposal accordingly.
- D-13 ■ **Youth Authority Proposals Overbudgeted. Reduce Item 5460-001-0001 by \$148,000 in 2005-06.** The budget for the Youth Authority proposes funding in 2005-06 for collection of DNA samples from wards and

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parolees in compliance with Proposition 69. The proposal includes several overestimated costs. We recommend reduction of the funding proposal accordingly.

***Foreign Prisoner Transfer Program***

- D-19 ■ **Foreign Prisoner Transfer Treaty Program. Reduce Item 5240-001-0001 by \$127,000. Increase Item 5440-001-0001 by \$110,000.** The BPT and CDC operate a program to transfer foreign prisoners back to their home country. However, the state has transferred few prisoners in recent years. We recommend that the Legislature authorize the expansion of this program and adopt supplemental report language to maximize its effectiveness. The resulting incarceration savings would likely offset program costs, with savings growing in future years.

**Judicial Branch**

- D-24 ■ **Legislative Action Required to Backfill for Loss of Fee Revenue.** We withhold recommendation on the budget for the Trial Court Funding program, pending a report by Judicial Council of California staff at budget hearings on the status of its Uniform Civil Fee proposal, and the estimated revenues that would be generated under the proposal in the budget year.

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- D-26    ■    **Technical Adjustments Required.** We recommend the Department of Finance make technical adjustments to the Judicial Branch budget as part of the May Revision relating to the Trial Court Trust Fund reserve amounts, and growth funding based on the state appropriations limit.
- D-27    ■    **Grand Jury Proceedings Mandates.** We recommend adoption of the Governor’s proposal to suspend the “Grand Jury Proceedings” mandates, as this would allow the Legislature to evaluate the outcomes of the subject legislation without incurring additional costs. We further recommend the Legislature adopt supplemental report language requiring the Administrative Office of the Courts to report to the Legislature on the grand jury proceedings process.

**Department of Justice**

- D-30    ■    **Equipment Overbudgeted. Reduce Item 0820-001-0001 by \$3.5 Million.** We recommend deleting \$3.5 million from the department’s budget because equipment is overbudgeted.

**Department of Corrections**

- D-34    ■    **Caseload May Require Further Adjustment.** We withhold recommendation on the 2005-06 budget request for caseload funding. Ongoing delays implementing current-year budget reforms designed to

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reduce the prison and parole populations make it difficult to accurately project the department's caseload. We will continue to monitor the caseload and recommend further changes, if necessary, following review of the May Revision.

- D-34 ■ **Disciplinary Confinement Practices Need Improvement.** We find that CDC's current policies and practices result in an over-reliance on expensive disciplinary confinement beds while not significantly contributing to institution safety and security. Based on these findings, we make several recommendations that would reduce the department's reliance on disciplinary confinement, generate General Fund savings, and improve prison safety.
- D-46 ■ **Various Proposals Need Modification. Reduce Item 5240-001-0001 by \$44 Million.** The department requests funding for salary savings adjustments, price increases, employee discipline, post relief, and a unit for inmates at a state mental hospital. We recommend deletion or a reduction of funding for these proposed expenditures that we have found are not justified, and offer other recommendations.
- D-48 ■ **Headquarters Overutilizes Custody Personnel. Reduce Item 5240-001-0001 by \$1.3 million.** The department is using peace officer staff in many of its headquarters positions, resulting in inefficiencies and unnecessary costs in headquarters. We recommend reducing CDC's budget by \$1.3 million by reclassifying headquarters positions to non-custody positions. We

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further recommend supplemental report language requiring the department to report on its progress in reducing the use of peace officer classifications in headquarters.

- D-52 ■ **Inmate Medical Proposal Consistent With Court Order. Reduce Item 5240-001-0001 by \$3 Million.** Although the budget request is consistent with the September 2004 federal court order, we recommend reductions totaling approximately \$3 million. We recommend the Legislature direct CDC and DPA to report on recent efforts to design a new salary structure for nurse classifications. We further recommend the adoption of supplemental report language requiring CDC to annually provide information that would allow the Legislature to assess the department's progress toward attaining the goals of the *Plata* settlement agreement. Finally, we recommend that the department report on its plan to develop and implement an automated inmate health information system by 2010.

**Board of Corrections**

- D-64 ■ **Position Justification Required.** We withhold recommendation on the \$2.7 million requested for the Standards and Training for Corrections (STC) program, and recommend that the Legislature direct the Board of Corrections to report prior to budget hearings on the STC program staff's workload, and how staff workload related to training course certifications is different from the services provided by the Commission on Peace Officer Standards and Training.

**Analysis****Page****Department of the Youth Authority**

- D-67 ■ **Ward and Parolee Populations Projected to Decline: Will Be Updated in May.** Based on fall estimates, the ward and parolee populations are projected to modestly decrease between 2004-05 and 2009-10. We withhold recommendation on related budget adjustments pending receipt of the May Revision budget proposal and population projections. We recommend the Legislature direct the Youth Authority to factor the impact of the Governor's juvenile justice policy proposals into its updated spring population projections.
- D-69 ■ **Proposal to Close Camps Has Merit, but Camp Conversions Need Legislative Review.** We recommend approval of the proposed closure of Ben Lomond and Washington Ridge Youth Conservation Camps, along with the Preston Youth Correctional Facility Pre-Camp, because it would allow the remaining camps to operate at or near capacity, thereby reducing the average cost per ward. We further recommend the Legislature direct the administration to report prior to budget hearings on the proposed conversion of these camps into adult inmate camps because the budget provides no information regarding this proposal.







